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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91212024
Party	Plaintiff Republic Technologies (NA), LLC
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Submission	Motion for Summary Judgment
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Signature	/Antony McShane/
Date	06/12/2014
Attachments	Motion_for_Summary_Judgment_-_SOB.pdf(12663 bytes) Memo_in_Support_of_Motion_for_Summary_Judgment.pdf(27221 bytes) Declaration_of_ASF_for_summary_judgment_memo.pdf(10640 bytes) Exhibit A.pdf(793288 bytes) Exhibit B.pdf(834954 bytes) Exhibit C.pdf(171459 bytes) Exhibit D.pdf(1087460 bytes) Exhibit E.pdf(776678 bytes) Exhibit F.pdf(464302 bytes) Exhibit G.pdf(1637610 bytes) Exhibit H.pdf(611086 bytes) Exhibit I.pdf(568483 bytes) Exhibit J.pdf(395191 bytes) Exhibit K.pdf(56378 bytes) Exhibit L.pdf(230603 bytes) Exhibit M.pdf(593066 bytes) Exhibit N.pdf(171352 bytes) Exhibit O.pdf(598515 bytes) Exhibit P.pdf(274774 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial
No. 85/551,808 for S.O.B.

Published in the Official Gazette
on July 23, 2013

REPUBLIC TECHNOLOGIES (NA),
LLC,

Opposer,

v.

BROOKS ENTERTAINMENT, INC.,

Applicant.

Opposition No. 91212024

**REPUBLIC TECHNOLOGIES' MOTION FOR
SUMMARY JUDGMENT**

Republic Technologies (NA), LLC ("Republic Technologies") hereby moves, pursuant to Rule 56(a), Federal Rules of Civil Procedure, and Rule 2.127 of the Trademark Rules of Practice, for summary judgment in its favor.

Republic Technologies brought this opposition to oppose the registration of the mark S.O.B. for cigars on the ground that it is likely to cause confusion with its JOB mark, which it uses in connection with a variety of smokers' articles including cigarette papers, cigarette filter tips, cigarette tubes, cigarette injector machines and cigarette rolling machines. As set forth in detail in Republic Technologies' accompanying memorandum, however, Applicant's discovery responses reveal that (1) Applicant did not use the S.O.B. mark in commerce in the United States in connection with cigars when it filed its application, making the application void *ab initio* with

respect to § 1(a); and (2) Applicant cannot claim the Dominican Republic as a country of origin and therefore does not have a basis for United States registration under § 44(e).¹ During the discovery period, Applicant could not produce a single document that could reasonably be interpreted to show its use of the mark in interstate commerce as of the date it filed its application or its maintenance of a bona fide and effective industrial or commercial establishment in the Dominican Republic as of the date of issuance of its Dominican trademark registration. To the contrary, Applicant's discovery responses and documents indicate that its use of the mark, if any, in United States commerce began more than a year after it filed its application. Applicant's responses and documents also show that Applicant did not have, and does not at present have, a legitimate business establishment in the Dominican Republic, instead relying on a contract with a third-party manufacturer and its misrepresentation that it has Dominican employees. Accordingly, there is no genuine issue of material fact as to Applicant's lack of use of the mark in commerce when it filed its application, nor as to Applicant's lack of bona fide Dominican business operations. Therefore, the Board should resolve this proceeding on summary judgment, sustaining Republic Technologies' opposition and refusing to register the subject mark.

In further support of its motion, Republic Technologies submits its Memorandum in Support of Motion for Summary Judgment and related record material.

WHEREFORE, Republic Technologies respectfully requests that this Board grant its Motion for Summary Judgment in this matter pursuant to Federal Rules of Civil Procedure 56(a) and 37 C.F.R. § 2.117.

¹ Republic Technologies files this motion in connection with its contemporaneously filed Motion for Leave to File an Amended Notice of Opposition, which adds both grounds as additional bases for opposition.

Respectfully submitted,

REPUBLIC TECHNOLOGIES (NA), LLC

By: /Antony J. McShane/
 One of Its Attorneys

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Dated: June 12, 2014

CERTIFICATE OF SERVICE

I, Andrew S. Fraker, an attorney, state that, pursuant to 37 CFR §§ 2.101, 2.111, and 2.119, I caused a true and correct copy of the foregoing **Motion for Summary Judgment** to be served upon:

Richard B. Jefferson
M.E.T.A.L. Law Group, LLP
Museum Square
5757 Wilshire Blvd., PH 3
Los Angeles, CA 90036

via U.S. Mail, with a courtesy copy sent via email, on June 12, 2014.

/Andrew S. Fraker /
Andrew S. Fraker

NGEDOCs: 2178121.2

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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In the Matter of Application Serial
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REPUBLIC TECHNOLOGIES (NA),
LLC,

Opposer,

v.

BROOKS ENTERTAINMENT, INC.,

Applicant.

Opposition No. 91212024

**MEMORANDUM IN SUPPORT OF REPUBLIC TECHNOLOGIES’
MOTION FOR SUMMARY JUDGMENT**

Applicant seeks registration for the subject mark under § 1(a) of the Lanham Act based on use in interstate commerce since June 16, 2011, and under § 44(e) based on its prior registration of the mark in the Dominican Republic. Undisputed facts established during discovery, however, reveal that (1) Applicant did not use the S.O.B. mark in interstate commerce in connection with cigars, if at all, until more than a year after it filed its application, making the application void *ab initio* with respect to § 1(a); and (2) Applicant cannot claim the Dominican Republic as a country of origin and therefore does not have a basis for United States registration under § 44(e).¹ As a result, Applicant’s mark is not entitled to registration, and summary judgment should be entered in favor of Opposer Republic Technologies.

¹ Republic Technologies files this motion in connection with its contemporaneously filed Motion for Leave to File an Amended Notice of Opposition, which adds both grounds as additional bases for opposition.

INTRODUCTION

On February 24, 2012, more than a century after Republic Technologies (NA), LLC (“Republic Technologies”) and its predecessors began using the JOB mark, Applicant filed its application to register the mark S.O.B. based on its purported use of the mark in connection with cigars in International Class 34 “[a]t least as early as” June 16, 2011. Applicant concurrently claimed a priority date of November 16, 2011, pursuant to § 44(d), based on its ownership of a Dominican Republic registration for the mark. On February 14, 2013, as part of its petition to revive its abandoned application, Applicant asserted §44(e) as a basis for registration in addition to § 1(a). On May 20, 2013, in response to an Office Action, Applicant amended its application to state that it “ha[d] a bona fide and effective industrial or commercial establishment in the Dominican Republic as of the date of issuance of the foreign registration” in order to perfect its §44(e) claim. Both Applicant’s § 1(a) and § 44(e) claims, however, must fail as a matter of law, as Applicant does not satisfy the statutory requirements for registration under either Section.

I. Applicant Did Not Use the Mark in Interstate Commerce When It Filed Its Application

Applicant’s application is void *ab initio* as to § 1(a) because Applicant did not use the S.O.B. mark in commerce in the United States as of the date it filed its application. “The registration of a mark that does not meet the use requirement is void *ab initio*.” *Aycock Engineering Inc. v. Airflite Inc.*, 560 F.3d 1350, 90 U.S.P.Q.2d (BNA) 1301, 1305 (Fed. Cir. 2009) (italics added). *See also, e.g., Clorox Co. v. Salazar*, 108 U.S.P.Q.2d (BNA) 1083, 1087 (TTAB 2013) (granting opposer’s motion for summary judgment and sustaining opposition where applicant had not made bona fide use of the mark in commerce at the time of filing and therefore application was void *ab initio*); *ShutEmDown Sports Inc. v. Lacy*, 102 U.S.P.Q.2d (BNA) 1036, 1045 (TTAB 2012) (“Because we find that respondent’s allegation of use of his

mark in commerce for the identified goods at the time of filing his application was false, we hold that the application was void *ab initio*”) (italics in original).

During the discovery period of this opposition, Republic Technologies served interrogatories and document requests seeking information and documents relating to Applicant’s first use of the mark in interstate commerce and Applicant’s sales of cigars in the United States. *See* Opposer’s First Set of Interrogs. to Applicant, attached hereto as Exhibit A, Interrog. No. 4; Opposer’s First Reqs. for Produc. of Docs. to Applicant, attached hereto as Exhibit B, Requests Nos. 3 and 5; Opposer’s Second Reqs. for Produc. of Docs., attached hereto as Exhibit C, Reqs. Nos. 1-4. In response, Applicant represented that it would produce all responsive non-privileged documents in its possession “to the extent that they exist.” *See* Applicant’s Resps. to Opposer’s First Set of Interrogs., attached hereto as Exhibit D, Resp. No. 4; Applicant’s Resps. to Opposer’s First Reqs. for Produc. of Docs., attached hereto as Exhibit E, Resps. Nos. 3 and 5; Applicant’s Resps. to Opposer’s Second Reqs. for Produc. of Docs., attached hereto as Exhibit F, Resps. Nos. 1-4.

By the close of discovery, however, Applicant was unable to produce a single document supporting its claim that it used the S.O.B. mark in interstate commerce as of February 24, 2012, when it filed its application. Instead, Applicant produced (1) its contract with Tabaqueria Carbonell, a Dominican cigar manufacturer, for the production of cigars; (2) tobacco import reports Applicant filed with the Alcohol and Tobacco Tax and Trade Bureau; and (3) Applicant’s own promotional materials. These documents, however, establish that Applicant’s use of the mark, if any, began more than a year after Applicant filed its application.

Applicant’s contract with Tabaqueria Carbonell is dated September 3, 2013, and does not refer to any prior production of cigars for or by Applicant. *See* Ex. G. Likewise, Applicant filed

its first tobacco import report on June 15, 2013. *See* Ex. H. Such reports must be filed monthly by all active tobacco importers beginning with “the 15th day of the month following the month in which the [importer’s] permit is issued.” 27 C.F.R. § 41.262. Applicant’s documents establish, therefore, that Applicant did not have a contract to produce cigars or a permit to import cigars before 2013.

Applicant’s promotional materials also show that Applicant actually began to use the S.O.B. mark in interstate commerce in mid-2013, if at all. Indeed, on May 3, 2013, Applicant issued a press release announcing its pending launch of S.O.B. cigars:

After 3 years in the making comes along [sic] a ‘star cigar’ created for the cigar aficionado and enthusiast. ... The S.O.B. Cigar Rubusto [sic] and Torpedo *will be headed* for all states in the United States of America upon the launch date. ... It *will debut* in the ‘Habana Club Café’ (emphasis added).

See Ex. I. Applicant issued a second press release on July 12, 2013, announcing an event at the Hard Rock Casino in Punta Cana, Dominican Republic: “The one hundred percent S.O.B.TM exclusive extra premium dominican [sic] cigar brand, after 3 years in the making, gets *debut* [sic] at the 5 star luxury Hard Rock Hotel and Casino, Punta Cana” (emphasis added). *See* Ex. J. As recently as June 6, 2013, Applicant’s one-page website at www.sobcigars.com read, “Fill in your email address & we’ll contact you for preorders leading up to our NEW launch!” *See* Ex. K. Applicant sent an email to retailers acknowledging their “pre-order request” and including “pre-ordering information” as recently as June 28, 2013. *See* Ex. L.

Despite producing all responsive documents in its possession “to the extent that they exist,” Applicant was unable to produce any invoices, receipts, sales records, packaging samples, packing slips, revenue statements, tax records, shipping records, or importation documents indicating that it sold any cigars in 2011 or 2012. Applicant could not produce a single document that even makes reference to the existence of S.O.B. branded cigars before 2013 to support its

claim that it used the S.O.B. mark in interstate commerce as of February 24, 2012, when it filed its application. Rather, Applicant's documents show that Applicant's actual use of the mark, if any, began more than a year later. There is therefore no genuine issue of material fact as to whether Applicant's application is void *ab initio* with regard to § 1(a), and summary judgment should be granted accordingly.

II. Applicant Cannot Claim the Dominican Republic as a Country of Origin

Applicant does not have a legitimate basis for United States registration under § 44(e) based on its Dominican registration because Applicant did not maintain a bona fide and effective industrial or commercial establishment in the Dominican Republic as of the issuance of its Dominican registration. Accordingly, Applicant cannot claim the Dominican Republic as a country of origin as required by § 44(e).

Section 44(e) allows owners of foreign trademark registrations from countries party to a convention or treaty with the United States to register their marks without alleging actual use in United States commerce. The foreign registration, however, must come from the applicant's country of origin, defined as "the country in which he has a bona fide and effective industrial or commercial establishment, or if he has not such an establishment the country in which he is domiciled, or if he has not a domicile in any of the countries described in subsection (b) of this section, the country of which he is a national." 115 U.S.C. 1126(c).

In response to Republic Technologies' request for admission, Applicant admits that it "was not domiciled in the Dominican Republic when the Dominican trademark registration was issued." *See* Applicant's Objections and Resps. to Opposer's First Set of Reqs. for Admissions, attached hereto as Exhibit M, Resp. No. 7. Similarly, Applicant admits that it "was not a Dominican national when the Dominican trademark registration was issued." *Id.*, Resp. No. 8.

Accordingly, Applicant's mark is entitled to registration under § 44(e) only if Applicant had a bona fide and effective industrial or commercial establishment in the Dominican Republic as of February 15, 2012, the date of its Dominican registration.

An "establishment" is defined as "the place where one is permanently fixed for business; an institution or place of business, with its fixtures and organized staff." *Ex parte Blum*, 138 U.S.P.Q. (BNA) 316, 317 (Comm'r of Patents 1963). A mere office or storehouse is insufficient, *Id.*, as is a mere postal address. *In re International Barrier Corp.*, 231 U.S.P.Q. (BNA) 310, 311 n.3 (TTAB 1986). Moreover, "a bona fide and effective industrial or commercial establishment cannot be created by ... reliance on the commercial facilities of an independent legal entity." *Kallamni v. Khan*, 101 U.S.P.Q.2d (BNA) 1864, 1868 (TTAB 2012) (granting summary judgment for cancellation petitioner because § 44(e) registrant's activities in European Union, including selling products to and contracting with third parties, failed to establish country of origin); *see also Ex parte Blum* at 317 (country of origin cannot be established by contractual relationship with licensee). This is true even if the independent legal entity is a wholly owned subsidiary of the applicant. *In re Aktiebolaget Electrolux*, 182 U.S.P.Q.2d (BNA) 255, 256 (TTAB 1974).

During the discovery period, Republic Technologies served interrogatories and document requests seeking information related to Applicant's business activities and presence in the Dominican Republic. *See* Opposer's Second Set of Interrogs., attached hereto as Exhibit N, Interrogs. Nos. 1-4; Ex. C, Req. No. 5. In response, Applicant identified the address of its third-party manufacturer of cigars and stated that "Tabaqueria Carbonell CXA has manufactured the cigars and assembled the product since 2011." *See* Applicant's Resps. to Opposer's Second Set of Interrogs., attached hereto as Exhibit O, Resps. Nos. 1-3, 5. Applicant also claimed to have

several employees in the Dominican Republic. *Id.*, Resps. Nos. 1, 4-5. Applicant represented that it had produced responsive documents and that it would produce additional responsive documents “if such are discovered,” but did not produce any additional documents. *See* Ex. F, Resp. No. 5.

Applicant’s discovery responses and documents show that Applicant did not have and has never had a legitimate fixed business establishment in the Dominican Republic. Applicant misrepresents Tabaqueria Carbonell’s production facility as Applicant’s own. *See* Ex. O, Resps. Nos. 1-3, 5. Tabaqueria Carbonell, however, is a legally independent entity and has been so for more than 100 years, as shown by its contract with Applicant (*See* Ex. G). Therefore, following *Kallamni v. Khan*, it cannot provide the basis for Applicant to claim the Dominican Republic as a country of origin. Applicant was unable to produce any documentary evidence that it was or has ever been incorporated or licensed to do business in the Dominican Republic; that it has ever owned or rented real property in the Dominican Republic; or that it has ever maintained its own fixed place of business in the Dominican Republic.

Applicant also purports to have seven Dominican employees. Applicant was unable to produce any payroll data, personnel records, pay stubs, tax forms, benefits data, or any other sort of documentation of their purported employment. In fact, Applicant’s documents show that three of its claimed employees are actually employed by Wendy Diaz & Associates, P.A., the international law firm that assisted Applicant with its Dominican trademark registration. *See* Ex. P. Moreover, the remaining employees can only be reasonably characterized as independent contractors hired for limited purposes. For example, Applicant represents that Veneranda Linares has been its “Spanish to English contract translator since 2011.” *See* Ex. O, Resps. Nos. 1-3, 5. Applicant, however, was unable to produce any evidence of Linares’ “employment” beyond a

Applicant's discovery responses and documents show that it did not have, and does not have, a bona fide and effective industrial or commercial establishment, with fixtures and organized staff, sufficient to allow Applicant to claim the Dominican Republic as a country of origin for the purposes of § 44(e). There is therefore no genuine issue of material fact that Applicant does not have a valid basis for registration under § 44(e).

Applicant's documents and discovery responses reveal that (1) Applicant did not use the S.O.B. mark in interstate commerce in connection with cigars when it filed its application, making the application void *ab initio* with respect to § 1(a); and (2) Applicant cannot claim the Dominican Republic as a country of origin and therefore does not have a basis for United States registration under § 44(e). Because there is no genuine issue of material fact with respect to either issue, Republic Technologies' opposition should be sustained on summary judgment.

REPUBLIC TECHNOLOGIES (NA), LLC

8

Antony J. McShane
Andrew S. Fraker
NEAL, GERBER & EISENBERG LLP
Two North LaSalle Street
Suite 1700
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(312) 269-8000
Firm ID 13739

Dated: June 12, 2014

CERTIFICATE OF SERVICE

I, Andrew S. Fraker, an attorney, state that, pursuant to 37 CFR §§ 2.101, 2.111, and 2.119, I caused a true and correct copy of the foregoing **Memorandum in Support of Republic Technologies' Motion for Summary Judgment** to be served upon:

Richard B. Jefferson
M.E.T.A.L. Law Group, LLP
Museum Square
5757 Wilshire Blvd., PH 3
Los Angeles, CA 90036

via U.S. Mail, with a courtesy copy sent via email, on June 12, 2014.

/Andrew S. Fraker /
Andrew S. Fraker

NGEDOCs: 2178122.2

DECLARATION OF ANDREW S. FRAKER

I, Andrew S. Fraker, an attorney and a member of Neal Gerber & Eisenberg, LLP, counsel of record for Opposer Republic Technologies (NA), LLC (“Republic Technologies”), hereby declare as follows:

1. Exhibit A attached hereto is a true and correct copy of Opposer’s First Set of Interrogatories to Applicant, served by Republic Technologies in this opposition.

2. Exhibit B attached hereto is a true and correct copy of Opposer’s First Requests for Production of Documents to Applicant, served by Republic Technologies in this opposition.

3. Exhibit C attached hereto is a true and correct copy of Opposer’s Second Requests for Production of Documents, served by Republic Technologies in this opposition.

4. Exhibit D attached hereto is a true and correct copy of Applicant’s Responses to Opposer’s First Set of Interrogatories, served by Applicant in this opposition.

5. Exhibit E attached hereto is a true and correct copy of Applicant’s Responses to Opposer’s First Requests for Production of Documents, served by Applicant in this opposition.

6. Exhibit F attached hereto is a true and correct copy of Applicant’s Responses to Opposer’s Second Requests for Production of Documents, served by Applicant in this opposition.

7. Exhibit G attached hereto is a true and correct copy of Applicant’s contract with Tabacos (Tabaqueria) Carbonell, S.A., to begin production of cigars, dated September 3, 2013, as produced by Applicant in response to Republic Technologies’ discovery requests in this opposition.

8. Exhibit H attached hereto is a true and correct copy of Applicant's earliest-dated Monthly Report to the Alcohol and Tobacco Tax and Trade Bureau, as produced by Applicant in response to Republic Technologies' discovery requests in this opposition.

9. Exhibit I attached hereto is a true and correct copy of Applicant's press release, as produced by Applicant in response to Republic Technologies' discovery requests in this opposition.

10. Exhibit J attached hereto is a true and correct copy of Applicant's press release, as produced by Applicant in response to Republic Technologies' discovery requests in this opposition.

11. Exhibit K attached hereto is a true and correct copy of a printout of Applicant's website as it appeared on June 6, 2013, as retrieved from the Internet Archive (www.archive.org) by the undersigned on June 9, 2014.

12. Exhibit L attached hereto is a true and correct copy of a printout of an email sent by Applicant, as produced by Applicant in response to Republic Technologies' discovery requests in this opposition.

13. Exhibit M attached hereto is a true and correct copy of Applicant's Objections and Responses to Opposer's First Set of Requests for Admissions, as served by Applicant in this opposition.

14. Exhibit N attached hereto is a true and correct copy of Opposer's Second Set of Interrogatories, as served by Opposer in this opposition.

15. Exhibit O attached hereto is a true and correct copy of Applicant's Responses to Opposer's Second Set of Interrogatories, as served by Applicant in this opposition.

16. Exhibit P attached hereto is a true and correct copy of an invoice to Applicant from Wendy Diaz & Associates, P.A., and emails sent by Applicant, as produced by Applicant in this opposition.

I declare under penalty of perjury under the laws of the State of Illinois and United States of America that the foregoing facts are true and correct, and that this declaration was executed on June 11, 2014.

/Andrew S. Fraker /
Andrew S. Fraker

NGEDOCs: 019126.0702:2179457.1

EXHIBIT A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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Opposition No. 91212024

OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, Opposer, Republic Technologies (NA), LLC, hereby requests that Applicant, Brooks Entertainment, Inc., serve upon Opposer sworn answers to the interrogatories set forth below within thirty (30) days. These interrogatories are intended to be continuing in nature and any information that may be discovered subsequent to the service of Applicant's initial answers should be brought to the attention of Opposer through supplemental answers within thirty (30) days following such discovery pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

INTERROGATORIES

1. State the full name of Applicant as well as the full name of all of its parents, subsidiaries or affiliated businesses, companies, and other entities, and for each, identify its principal(s) and its state of incorporation or organization.

2. State the full name of each business, company, person, or other entity affiliated with Applicant that has at any time used Applicant's Mark, and for each, identify its principal(s) and its state of incorporation or organization.

3. Identify each transaction by which it is claimed that any rights or license in Applicant's Mark have passed to Applicant, including setting forth the date of each such transaction and identifying the parties to the transaction and all documents related thereto.

4. Identify by common commercial name each and every product marketed, distributed, sold or offered, or intended to be marketed, distributed, sold or offered by Applicant under or in connection with Applicant's Mark or any mark comprising Applicant's Mark, and for each product, identify:

- a. the inclusive dates of use of the marks with such products (if applicable);
- b. the geographic scope of such use;
- c. the price at which the product is sold or intended to be sold;
- d. the annual volume of sales of the product in both dollars and units, if applicable;
- e. the unit sizes in which the product is or will be sold;
- f. each class of purchasers or expected purchasers of the product;
- g. the channels of trade by which the product reaches or will reach the ultimate consumer;
- h. all types of stores or forums in which the product is or will be offered or sold; and

- i. the persons most knowledgeable of each of the foregoing and all documents relating thereto.

5. Explain the reason(s) for Applicant's adoption or intended adoption of Applicant's Mark for each product identified in response to Interrogatory No. 4 as well as the procedure followed by Applicant in its decision, and identify (a) all persons who participated in each such decision, and (b) all documents relating thereto, including but not limited to any trademark search reports.

6. Identify each term, symbol, and/or designation other than Applicant's Mark considered for use on or in connection with each product identified in response to Interrogatory No. 4, and state whether such term, symbol and/or designation was ever used in association with any of the products, explain why or why not, and identify (a) the persons most knowledgeable thereof, and (b) all documents relating thereto.

7. Describe in detail each poll, survey, consumer study or market research effort initiated by or on behalf of Applicant relating in any way to Applicant's Mark, or to the packaging, labeling or advertising of the products identified in response to Interrogatory No. 4, and identify (a) the persons most knowledgeable thereof, and (b) all documents relating thereto.

8. Identify each employee or agent of Applicant or any independent contractor who has or will have primary responsibility for the following services or functions with respect to each product identified in response to Interrogatory No. 4, and for each such entity, describe in detail the services that have been, are being or will be performed and the inclusive dates of such services:

- (a) package design
- (b) product design
- (c) market research

(d) advertising and promotion

9. Identify all persons involved on behalf of Applicant in planning the past, current and future advertising, marketing, promotion, distribution and sale of products under or in connection with Applicant's Mark.

10. With respect to each product identified in response to Interrogatory No. 4, identify all means by which the product will be, is being or has been advertised or promoted, and identify (a) the annual expenditures for each, and (b) the persons most knowledgeable thereof.

11. Identify every trade show at which each product identified in response to Interrogatory No. 4 has been or will be advertised or promoted.

12. Identify each press or publicity release concerning any product promoted in association with Applicant's Mark issued or published, caused to be issued or published, or intended to be issued or published and, for each such release identify (a) all publications or other media in or through which information contained therein was disseminated, and (b) the person(s) responsible therefor.

13. State whether Applicant has ever received any mail, inquiries, complaints, requests for refunds, orders, checks, or other communications that in any manner were intended for Opposer or that in any way indicated an association or connection between Opposer and Applicant, and if so, with respect to each:

- a. Identify:
 - i. each such caller, sender, addresser, or communicator;
 - ii. the date and place of occurrence;
 - iii. the substance of each such communication; and
 - iv. the person receiving the communication;

- b. state whether or not any response to, or record of, the communication was made;
- c. identify all persons knowledgeable thereof; and
- d. identify all documents relating thereto.

14. Describe in detail Applicant's awareness and knowledge of Opposer, Opposer's business activities and Opposer's Marks prior to Applicant's selection and adoption of Applicant's Mark and the filing of its Application for the Mark, and identify (a) the person(s) most knowledgeable thereof, and (b) all documents relating thereto.

15. State whether Applicant has ever received any objection to its use or registration of Applicant's Mark other than the instant proceedings, and with respect to each such objection, identify (a) the nature and basis of the objection, (b) when the objection was made, (c) the disposition of the objection, (d) the persons most knowledgeable about the objection, and (e) all documents relating to the objection.

16. State whether Applicant has ever objected to the use or registration of any other mark based on its similarity to Applicant's Mark, and if so, with respect to each such objection, identify (a) the mark or term to which the objection was made, (b) the nature and basis of the objection, (c) when the objection was made, (d) the disposition of the objection, (e) the persons most knowledgeable about the objection, and (f) all documents relating to the objection.

17. Identify by title, index number and tribunal each civil action or *inter partes* proceeding in which Applicant or any business, company or other entity identified in response to Interrogatory No. 1 has been or is involved, other than the present opposition proceeding, that refers or relates in any way to Applicant's Mark, and for each such proceeding identify (a) the persons most knowledgeable thereof; (b) all documents relating thereto and (c) its disposition or current status.

18. Identify all agreements to which Applicant or any business, company, or other entity identified in response to Interrogatory No. 1 has been or is a party that refer or relate in any way to Applicant's Mark, including all amendments and modifications thereto, and identify (a) the persons most knowledgeable thereof, and (b) all documents relating thereto.

19. Identify all facts that support Applicant's contention in its first Affirmative Defense that Opposer "fails to state facts sufficient to constitute a claim upon which relief can be granted," and identify (a) the persons most knowledgeable thereof, and (b) all documents relating thereto.

20. Identify all facts that support Applicant's contention in its second Affirmative Defense that "the Opposition was filed without merit and for improper reasons, namely to hinder [Applicant's] business," and identify (a) the persons most knowledgeable thereof, and (b) all documents relating thereto.

21. Identify all facts that support Applicant's contention in its third Affirmative Defense that "the Opposition is a frivolous matter," and identify (a) the persons most knowledgeable thereof, and (b) all documents relating thereto.

22. Identify all facts that support Applicant's contention in its fourth Affirmative Defense that "Opposer is barred from any recovery sought in the Opposition because [Applicant's] mark is not confusingly similar to Opposer's registered trademarks," and identify (a) the persons most knowledgeable thereof, and (b) all documents relating thereto.

23. Identify all facts that support Applicant's contention in its fifth Affirmative Defense that "Opposer is barred from any recovery sought in the Opposition because there is no likelihood of confusion between [Applicant's] mark and Opposer's registered trademarks," and identify (a) the persons most knowledgeable thereof, and (b) all documents relating thereto.

24. Identify, on an interrogatory-by-interrogatory basis, each person furnishing information upon which any part of any answer to these interrogatories is based, indicating the parts based on information so furnished by each such person, and whether such information is within the personal knowledge of such person, and if not within such person's knowledge, identify the source of the information so furnished.

DEFINITIONS

As used herein, the words and phrases set out below shall have the following meaning or meanings prescribed for them:

1. "Opposer" means Republic Technologies (NA), LLC, as well as its respective officers, directors, subsidiaries, divisions, representatives, employees, agents and assignees.

2. "Applicant" means Brooks Entertainment, Inc., as well as its respective officers, directors, subsidiaries, divisions, representatives, employees, agents and assignees.

3. "Subject Application" means U.S. Trademark Application Serial Number 85/5512,808 published in the Official Gazette on July 23, 2013.

4. "Opposer's Marks" means Opposer's marks involving the JOB designation bearing Federal Registration Nos. 073,124; 1,341,384; 2,422,747; 2,420,646; and 2,432,868.

5. "Applicant's Mark" means the S.O.B. mark as set forth in the Subject Application, and for use in connection with the goods and services designated therein.

6. "Person" means any individual, firm, partnership, corporation, proprietorship, association, or other organization or entity.

7. "Identify" means:

- a. in connection with natural persons, state their full names, titles and job descriptions, if applicable, and their present or last known business and home addresses;

- b. in connection with firms, partnerships, corporations, proprietorships, associations or other entities, state their name, and each of their present or last known addresses;
- c. in connection with documents, describe the documents, setting forth their dates, titles, authors, addresses, parties thereto and the substance thereof, with such reasonable particularity as would be sufficient to permit them to be sought by subpoenas duces tecum or under the provisions of Rule 34 of the Federal Rules of Civil Procedure. Documents to be identified shall include both documents in your possession, custody and control and all other documents of which you have knowledge;
- d. in connection with oral statements and communications, (i) state when and where they were made; (ii) identify each of the makers and recipients thereof as well as all others present at the time such statement or communication was made; (iii) indicate the medium of communication; and (iv) state their substance.

8. "Document" or "documents" means all writings of any nature whatsoever or other means by which information is retained in retrievable form, as well as drafts and all nonidentical copies thereof, including but not limited to memoranda, reports, opinions, stenographic or handwritten notes, contracts, agreements, records, audio and video recordings, correspondence, communications, studies, summaries, surveys, statistical compilations, minutes, charts, manuals, brochures, schedules, price lists, telegrams, teletypes, facsimiles, photographs of any nature, E-mail, electronically stored documents regardless of location or media upon which the data is stored, signage, drawings, sketches, blueprints, certificates of registration, labels, specimens, writings, and any other documents as defined in Rule 34 of the Federal Rules of Civil Procedure.

9. "Advertisement" means any printed or promotional materials including, but not limited to, flyers, brochures, story boards, newspaper items, scripts and audiotapes of radio advertising, scripts and videotapes of television advertising, email or other internet promotions and solicitations, and other materials printed, distributed or aired to the public or trade.

INSTRUCTIONS

1. The singular includes the plural and the plural includes the singular.
2. The terms “and” and “or” shall be construed disjunctively or conjunctively as necessary to bring within the scope of each document request all information that might otherwise be construed to be outside of its scope.
3. If the party or person to whom any Interrogatory is propounded, and his or her agents, employees, servants, attorneys, and all other representatives, and persons over whom the person or party to whom the request is propounded has the right to or does control or direct activities (hereinafter referred to as “you”) cannot answer the Interrogatory fully, completely, and in detail, after exercising due diligence to make inquiry and secure the information necessary, so state, and:
 - a. answer such Interrogatory to the extent possible;
 - b. specify the portion of such interrogatory that you are unable to answer fully, completely, and in detail; and
 - c. state the reason why such portion cannot be so answered.
4. If your response is qualified in any particular respect, set forth the details of such qualification.
5. All objections or answers to interrogatories which fail or refuse to fully respond to any interrogatory on the ground of any claim of privilege of any kind whatever shall:
 - a. state the nature of the claim of privilege;
 - b. state all facts relied upon in support of the claim of privilege or related thereto;
 - c. identify all documents related to the claim of privilege;
 - d. identify all persons having knowledge of any facts related to the claim of privilege; and

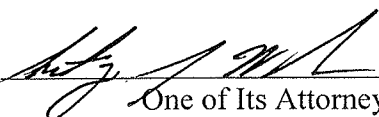
e. identify all events, transactions or occurrences related to the claim of privilege.

6. If, pursuant to Rule 33(d) of the Federal Rules of Civil Procedure, you opt to produce documents in lieu of a written response to an Interrogatory, indicate for each document provided the number of the Interrogatory to which it is responsive and the production number(s) of the documents identified for each response.

7. Discovery requests are continuous in nature and, pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, you are under a duty to seasonably amend any prior response to an interrogatory if you learn that the response is in some material respect incomplete or incorrect, or if you are so ordered by the Court.

Respectfully submitted,

REPUBLIC TECHNOLOGIES (NA), LLC

By: _____
One of Its Attorneys

Antony J. McShane
Andrew S. Fraker
NEAL, GERBER & EISENBERG LLP
Two North LaSalle Street
Suite 1700
Chicago, IL 60602-3801
(312) 269-8000
Firm ID 13739

Dated: January 10, 2014

CERTIFICATE OF SERVICE

I, Antony J. McShane, an attorney, hereby certify that I caused a true and correct copy of the foregoing **OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT** to be served upon:

Richard B. Jefferson
M.E.T.A.L. Law Group, LLP
Museum Square
5757 Wilshire Blvd., PH 3
Los Angeles, CA 90036

via U.S. Mail on the date noted below:

Date: January 10, 2014

By: /Antony J. McShane/
One of the Attorneys for Opposer,
Republic Technologies (NA), LLC

EXHIBIT B

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No.
85/551,808 for S.O.B.

Published in the Official Gazette
on July 23, 2013

REPUBLIC TECHNOLOGIES (NA), LLC,

Opposer,

v.

BROOKS ENTERTAINMENT, INC.,

Applicant.

Opposition No. 91212024

**OPPOSER'S FIRST REQUESTS FOR
PRODUCTION OF DOCUMENTS TO APPLICANT**

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 34 of the Federal Rules of Civil Procedure, Opposer, Republic Technologies (NA), LLC, hereby requests that Applicant, Brooks Entertainment, Inc., produce the documents and things described below at the offices of Neal, Gerber & Eisenberg, LLP, Two North LaSalle Street, Suite 1700, Chicago, Illinois 60602, or at such other place mutually agreed upon by the parties, within thirty (30) days. These requests are intended to be continuing in nature, and supplemental responses should be provided if Applicant learns that a response is incomplete or incorrect in any respect, pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce documents sufficient to identify the following:
 - a. each state in which Applicant is licensed, registered or qualified to do business;
 - b. all other places where Applicant is licensed, registered or qualified to do business; and
 - c. all corporations or other entities in which Applicant has a controlling interest.
2. Produce documents sufficient to identify:
 - a. all products offered or intended to be offered by Applicant under Applicant's Mark;
 - b. the manner in which Applicant uses or intends to use Applicant's Mark;
 - c. the geographic scope of Applicant's efforts or intended efforts to market, sell, or otherwise provide products under Applicant's Mark;
 - d. the date on which Applicant first marketed or offered or intends to first market or offer products under Applicant's Mark; and
 - e. the date on which Applicant first sold or provided or intends to first sell or provide any product(s) under Applicant's Mark in: (i) intrastate commerce in the United States; (ii) interstate commerce in the United States; and (iii) foreign commerce (if applicable).
3. Produce all documents evidencing, referring, or relating to when Applicant first used Applicant's Mark or when Applicant intends to first use Applicant's Mark anywhere in the United States.
4. Produce documents sufficient to identify the channels of trade through which Applicant distributes or intends to distribute products or offers or intends to offer products under Applicant's Mark including, without limitation, documents sufficient to identify the customers, sales agents, dealerships, distributors or other outlets through which its products are sold or are intended to be sold under Applicant's Mark.

5. For each and every product offered by Applicant under Applicant's Mark, produce documents sufficient to identify:

- a. the prices Applicant charges or intends to charge for each such product;
- b. Applicant's annual sales (in units and dollars) and projected sales of each such product, by country and state; and
- c. Applicant's current inventory of each such product.

6. Produce all documents evidencing, referring, or relating to any sales or marketing plans for products sold or intended to be sold under Applicant's Mark.

7. Produce all documents evidencing, referring, or relating to:

- a. the manner by which Applicant advertises or promotes, has advertised or promoted, or intends to advertise or promote products under Applicant's Mark;
- b. any publications in which Applicant has placed or intends to place print advertisements, articles or other information concerning products Applicant offers or intends to offer under Applicant's Mark; and
- c. any Internet website referring or relating to Applicant's Mark, including but not limited to printouts of all such website pages.

8. Produce documents sufficient to identify the total annual expenditures incurred by Applicant for all advertising and marketing using or relating to Applicant's Mark.

9. Produce all forecasts for all anticipated expenditures to be incurred by Applicant for advertising and marketing using or relating to Applicant's Mark.

10. Produce all documents that disclose, describe, or otherwise relate to:

- a. the characteristics or profiles of the type of person or entity that purchases or otherwise receives products provided by Applicant under Applicant's Mark or the type of person or entity to whom Applicant intends to market and sell products under Applicant's Mark;
- b. any incident(s) wherein any persons or entities have indicated that they understood or believed that Opposer's business or products, and Applicant's business or products, were in any way affiliated, associated or connected with one another; and

- c. with regard to any such incident(s), produce all documents that disclose, describe or are related to:
 - (i) the place of such incident;
 - (ii) the date of such incident;
 - (iii) the identity of all persons or entities involved in or having knowledge of such incident, and the nature of their involvement or knowledge;
 - (iv) the products involved in such incident;
 - (v) the nature of the incident;
 - (vi) how the incident came to the attention of Applicant; and
 - (vii) efforts to ascertain or monitor such incidents.
- 11. Produce all documents constituting or relating to:
 - a. misdirected correspondence (including electronic mail) or telephone calls received by Applicant that appear to be intended for Opposer; and
 - b. Opposer or Opposer's products, including but not limited to message slips and telephone logs.
- 12. Produce all documents evidencing, referring, or relating to the selection or adoption of Applicant's Mark.
- 13. Produce documents sufficient to identify any person employed by or associated with Applicant who participated in or was involved in or responsible for the selection or adoption of Applicant's Mark, and with respect to each person so identified, the nature and scope of his or her involvement.
- 14. Produce all documents evidencing, referring, or relating to:
 - a. whether Applicant has conducted or caused to be conducted a search, investigation or other inquiry, including any trademark search, concerning whether any similar marks to Applicant's Mark had been or were being used by other parties, or whether other parties had applied for or received registrations for such marks; and

- b. the decision by Applicant to apply or not to apply for registration of Applicant's Mark, including but not limited to all documents related to any discussions concerning such decision(s).
- 15. Produce all documents relating or referring to any prepared or actual filings with either the United States Patent and Trademark Office or any state's trademark office concerning any attempted registration by Applicant of Applicant's Mark.
- 16. Produce all documents that disclose, describe, constitute or otherwise relate to:
 - a. statements or reports concerning the quality or perceived standards of quality of products offered, or to be offered, by Applicant under Applicant's Mark;
 - b. any potential, threatened or actual civil action or *inter partes* proceeding relating to Applicant's Mark or involving products offered or to be offered by Applicant under Applicant's Mark; and
 - c. any complaints concerning any products distributed, marketed or sold at any time by Applicant, whether under Applicant's Mark or otherwise.
- 17. Produce all documents evidencing, referring, or relating to:
 - a. use by any third-party of any mark comprising Applicant's Mark or any other term that is visually or phonetically similar thereto; and
 - b. any license or assignment agreement(s) to which Applicant is a party concerning Applicant's Mark.
- 18. Produce representative specimens of all packaging, hang tags, wrapping, promotional material, press or publicity releases, brochures, pamphlets, advertisements, point of sale displays, signs, trade show displays, labels, or other material that depicts or describes any products marketed, distributed, sold, or offered by Applicant under Applicant's Mark, or intended to be marketed, distributed, sold, or offered under Applicant's Mark, including all drafts, mock-ups and prototypes thereof.
- 19. Produce all documents evidencing, referring, or relating to the development, production, or placement of all advertisements, either actual or considered, depicting or

describing any products marketed, distributed, sold, or offered by Applicant under Applicant's Mark, or intended to be marketed, distributed, sold or offered by Applicant under Applicant's Mark.

20. Produce all documents evidencing, referring, or relating to test marketing conducted by Applicant, or on its behalf, of any products offered or intended to be offered under Applicant's Mark, including but not limited to any market surveys, analyses, or studies concerning the promotion, use, potential sale, or sale of such product.

22. Produce all documents that support Applicant's contention in its first Affirmative Defense that Opposer "fails to state facts sufficient to constitute a claim upon which relief can be granted."

23. Produce all documents that support Applicant's contention in its second Affirmative Defense that "the Opposition was filed without merit and for improper reasons, namely to hinder [Applicant's] business."

24. Produce all documents that support Applicant's contention in its third Affirmative Defense that "the Opposition is a frivolous matter."

25. Produce all documents that support Applicant's contention in its fourth Affirmative Defense that "Opposer is barred from any recovery sought in the Opposition because [Applicant's] mark is not confusingly similar to Opposer's registered trademarks."

26. Produce all documents that support Applicant's contention in its fifth Affirmative Defense that "Opposer is barred from any recovery sought in the Opposition because there is no likelihood of confusion between [Applicant's] mark and Opposer's registered trademarks."

27. Produce all agreements that relate in any way to Applicant's Mark, including all amendments and modifications thereto.

28. Produce all documents consulted in the preparation of, or that are requested to be identified in, Applicant's responses to Opposer's First Set of Interrogatories.

29. Produce all documents relating to any document retention policy of Applicant or the destruction of documents by Applicant at any time.

DEFINITIONS

As used herein, the words and phrases set out below shall have the following meaning or meanings prescribed for them:

1. "Opposer" means Republic Technologies (NA), LLC, its affiliates, parents, subsidiaries, and their respective divisions, representatives, employees, licensors, licensees, agents and assignees.

2. "Applicant" means Brooks Entertainment, Inc., its affiliates, parents, subsidiaries, and its respective divisions, representatives, employees, licensors, licensees, agents and assignees.

3. "Subject Application" means Applicant's U.S. Application Serial No. 85/551,808.

4. "Applicant's Mark" means the S.O.B. mark as set forth in the Subject Application, and for use in connection with the goods and services designated therein.

5. "Opposer's Marks" means Opposer's Marks involving the JOB designation bearing Federal Registration Nos. 073,124; 1,341,384; 2,422,747; 2,420,646; and 2,432,868.

6. "Applicant's Answer" means the document titled "Applicant's Answer to Notice of Opposition" filed by Applicant's counsel on September 20, 2013 in the present Opposition proceeding.

7. "Person" means any individual, firm, partnership, corporation, proprietorship, association, or other organization or entity.

8. "Identify" means:

- a. in connection with natural persons, state their full names, titles and job descriptions, if applicable, and their present or last known business and home addresses;
- b. in connection with firms, partnerships, corporations, proprietorships, associations or other entities, state their name, and each of their present or last known addresses;
- c. in connection with documents, describe the documents, setting forth their dates, titles, authors, addresses, parties thereto and the substance thereof, with such reasonable particularity as would be sufficient to permit them to be sought by subpoenas duces tecum or under the provisions of Rule 34 of the Federal Rules of Civil Procedure. Documents to be identified shall include both documents in your possession, custody and control and all other documents of which you have knowledge;
- d. in connection with oral statements and communications, (i) state when and where they were made; (ii) identify each of the makers and recipients thereof as well as all others present at the time such statement or communication was made; (iii) indicate the medium of communication; and (iv) state their substance.

9. "Documents" means any and all writings of any nature whatsoever or other means by which information is retained in retrievable form, as well as drafts and all non-identical copies thereof, including but not limited to memoranda, stenographic or handwritten notes, contracts, agreements, records, audio and video recordings, correspondence, communications, reports, studies, summaries, surveys, statistical compilations, minutes, charts, manuals, brochures, schedules, price lists, telegrams, teletypes, facsimiles, E-mail, signage, certificates of registration, labels, specimens, writings, sketches, and computer disks, and any other documents as defined in Rule 34 of the Federal Rules of Civil Procedure.

10. "Relate to," "related to," or "relating to" means directly or indirectly mentioning or describing, pertaining to, connected with, or reflecting upon a state subject matter.

11. “Advertisement” means any printed or promotional materials including, but not limited to, flyers, brochures, story boards, newspaper items, scripts and audiotapes of radio advertising, scripts and videotapes of television advertising, email or other internet promotions and solicitations, and other materials printed, distributed or aired to the public or trade.

INSTRUCTIONS

1. The singular includes the plural and the plural includes the singular.
2. The terms “and” and “or” shall be construed disjunctively or conjunctively as necessary in order to bring within the scope of the document request all responses which might otherwise be construed to be outside its scope.
3. In responding to these requests, Applicant must make a diligent search of its records and of other papers and materials in its possession or available to it or its representatives, in accordance with the requirements of Rule 34 of the Federal Rules of Civil Procedure.
4. In answering these requests, Applicant is required to furnish all documents that are available to it, including documents and things in the possession, custody or control of any of Applicant’s representatives, including, without limitation, Applicant’s attorneys, accountants, advisers, agents, and other persons, directly or indirectly, employed by, or connected with Applicant or anyone else otherwise subject to Applicant’s control.
5. Each request calls for production of each document and thing in its entirety, without abbreviation, redaction, expurgation or modification. In addition, each request requires production of any addenda, attachments, drafts, and non-identical copies as found or located either in Applicant’s business or personal files, together with a copy of the descriptive file folders or database category in its entirety.

6. If any request cannot be complied with in full, it shall be complied with, to the extent possible, with a written explanation as to why full compliance is not possible. If there are no documents or things responsive to a particular request, Applicant must state so in writing.

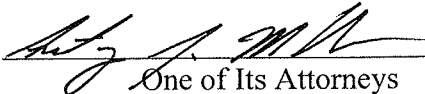
7. All objections to document requests in which Applicant fails or refuses to fully respond on the ground of any claim of privilege of any kind whatever shall:

- a. state the nature of the claim of privilege;
- b. state all facts relied upon in support of the claim of privilege or related thereto;
- c. identify all documents related to the claim of privilege;
- d. identify all persons having knowledge of any facts related to the claim of privilege; and
- e. identify all events, transactions or occurrences related to the claim of privilege.

8. Discovery requests are continuous in nature and, pursuant to Rule 26(e) of the Federal Rules of Civil Procedure, you are under a duty to seasonably supplement any prior response to a Request for Production if you learn that the response is in some material respect incomplete or incorrect, or if you are so ordered by the Court.

Respectfully submitted,

REPUBLIC TECHNOLOGIES (NA), LLC

By: _____
One of Its Attorneys

Antony J. McShane
Andrew S. Fraker
NEAL, GERBER & EISENBERG LLP
Two North LaSalle Street
Suite 1700
Chicago, IL 60602-3801
(312) 269-8000
Firm ID 13739

Dated: January 10, 2014

CERTIFICATE OF SERVICE

I, Antony J. McShane, an attorney, hereby certify that I caused a true and correct copy of the foregoing **OPPOSER'S FIRST FIRST REQUESTS FOR PRODUCTION OF DOCUMENTS TO APPLICANT** to be served upon:

Richard B. Jefferson
M.E.T.A.L. Law Group, LLP
Museum Square
5757 Wilshire Blvd., PH 3
Los Angeles, CA 90036

via U.S. Mail on the date noted below:

Date: January 10, 2014

By: /Antony J. McShane/
One of the Attorneys for Opposer,
Republic Technologies (NA), LLC

EXHIBIT C

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No.
85/551,808 for S.O.B.

Published in the Official Gazette
on July 23, 2013

REPUBLIC TECHNOLOGIES (NA), LLC,

Opposer,

v.

BROOKS ENTERTAINMENT, INC.,

Applicant.

Opposition No. 91212024

OPPOSER'S SECOND REQUESTS FOR PRODUCTION OF DOCUMENTS

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 34 of the Federal Rules of Civil Procedure, Opposer, Republic Technologies (NA), LLC, hereby requests that Applicant, Brooks Entertainment, Inc., produce the documents and things described below at the offices of Neal, Gerber & Eisenberg, LLP, Two North LaSalle Street, Suite 1700, Chicago, Illinois 60602, or at such other place mutually agreed upon by the parties, within thirty (30) days. These requests are intended to be continuing in nature, and supplemental responses should be provided if Applicant learns that a response is incomplete or incorrect in any respect, pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

REQUESTS FOR PRODUCTION OF DOCUMENTS

1. Produce all invoices or other documents showing sales in the United States of products bearing the S.O.B. mark in 2011.

2. Produce all invoices or other documents showing sales in the United States of products bearing the S.O.B. mark in 2012.

3. Produce all invoices or other documents showing sales in the United States of products bearing the S.O.B. mark in 2013.

4. Produce all invoices or other documents showing sales in the United States of products bearing the S.O.B. mark in 2014.

5. Produce all documents supporting Applicant's representation to the Trademark Office that it had a "bona fide and effective industrial or commercial establishment" in the Dominican Republic at the time its Dominican trademark registration was issued.

6. For any Request to Admit in Opposer's First Set of Requests for Admissions not unequivocally admitted, produce all documents referring to, relating to or establishing any facts upon which Applicant bases its response to the request.

DEFINITIONS AND INSTRUCTIONS

Opposer incorporates herein the definitions and instructions set forth in Opposer's First Request for Production of Documents to Applicant and Opposer's First Set of Interrogatories to Applicant as if fully set forth and repeated herein.

Respectfully submitted,

REPUBLIC TECHNOLOGIES (NA), LLC

By: 

One of Its Attorneys

Antony J. McShane
Andrew S. Fraker
NEAL, GERBER & EISENBERG LLP
Two North LaSalle Street
Suite 1700
Chicago, IL 60602-3801
(312) 269-8000
Firm ID 13739

Dated: April 21, 2014

CERTIFICATE OF SERVICE

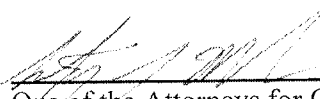
I, Antony J. McShane, an attorney, hereby certify that I caused a true and correct copy of the foregoing **OPPOSER'S SECOND SET OF REQUESTS FOR THE PRODUCTION OF DOCUMENTS** to be served upon:

Richard B. Jefferson
M.E.T.A.L. Law Group, LLP
Museum Square
5757 Wilshire Blvd., PH 3
Los Angeles, CA 90036

via U.S. Mail on the date noted below:

Date: April 21, 2014

By:



One of the Attorneys for Opposer,
Republic Technologies (NA), LLC

NGEDOCs: 019126.0702:2167748.1

EXHIBIT D

1 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
2 **BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

3 REPUBLIC TECHNOLOGIES (NA), LLC) IN THE MATTER OF:
4 Opposer,) OPPOSITION NO: 91212024
5 v.) SERIAL NO: 85/551,808
6) FOR THE MARK: S.O.B.
7 BROOKS ENTERTAINMENT, INC.,) PUBLISHED ON: JULY 23, 2013
8 A California Corporation)
9 Applicant.)
10) APPLICANT'S RESPONSES TO
11) OPPOSER'S FIRST SET OF
12) INTERROGATORIES

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27 **GENERAL OBJECTIONS**

28 A. Applicant objects to Opposer's discovery requests to the extent that they seek
information and seek to impose duties beyond the scope of the Federal Rules of Civil Procedure,
including any information protected by the attorney-client privilege, the work product doctrine,
or any other applicable privilege. The inadvertent disclosure of such information shall not
constitute a waiver of any right of non-disclosure, or the waiver of any other ground for objecting
to the disclosure of such information.

 B. Applicant objects to the Opposer's discovery requests to the extent they seek
information beyond the scope of permissible discovery in that they are not relevant to the subject
matter of this action, nor are they likely to lead to discovery of admissible evidence. Applicant
concedes neither the relevancy of any requests nor the relevancy or admissibility of any
information or documents provided in response thereto. The fact that information is provided on
documents produced in response to a particular request does not mean that it is probative of any
issue in this action. Applicant reserves all objections to admissibility with regard to the

29 **APPLICANT'S RESPONSES TO INTERROGATORIES – SET ONE**

statements or documents referred to in these interrogatories or in answers thereto.

C. Applicant objects to Opposer's discovery requests to the extent they seek proprietary, confidential, and/or sensitive business information, or information that implicates the privacy rights of any individuals.

D. Applicant objects to the extent that Opposer's discovery requests fail to describe the requested information with reasonably particularity and to the extent they are vague, overbroad, unduly burdensome, and unnecessarily duplicative.

E. A response to a particular request that Applicant will answer in the future is not a representation that such information or documents exist or have ever existed, but instead is a representation that, to the extent such information or documents exist and are within the knowledge of Applicant, they will be provided in accordance with the terms of Applicant's response to that particular request, and subject to all objections thereto.

F. Applicant reserves the right to supplement its responses to these discovery requests.

RESPONSE TO INTERROGATORIES

The responses set forth below are consistent with the foregoing general objections.

INTERROGATORY NO. 1: State the full name of Applicant as well as the full name of all of its parents, subsidiaries or affiliated businesses, companies, and other entities, and for each, identify its principal(s) and its state of incorporation or organization.

RESPONSE: Brooks Entertainment Inc., S.O.B cigars, Fran S. Brooks and Brooks Financial & Entertainment Consultants, Inc. - Incorporated in California Brooks Entertainment Inc.

INTERROGATORY NO. 2: State the full name of each business, company, person, or other

entity affiliated with Applicant that has at any time used Applicant's Mark, and for each, identify its principal(s) and its state of incorporation or organization.

RESPONSE: Brooks Entertainment, Inc., Fran S. Brooks

INTERROGATORY NO. 3: Identify each transaction by which it is claimed that any rights or license in Applicant's Mark have passed to Applicant, including setting forth the date of each such transaction and identifying the parties to the transaction and all documents related thereto.

RESPONSE: Dominican Trademark registration number 001-0945495-9, USPTO Copyright of S.O.B cigars, USPTO Trademark registration numbers 85/551,808 and VAu 1-071-810.

INTERROGATORY NO. 4: Identify by common commercial name each and every product marketed, distributed, sold or offered, or intended to be marketed, distributed, sold or offered by Applicant under or in connection with Applicant's Mark or any mark comprising Applicant's Mark, and for each product.

- a. the inclusive dates of use of the marks with such products (if applicable);
- b. the geographic scope of such use;
- c. the price at which the product is sold or intended to be sold;
- d. the annual volume of sales of the product in both dollars and units, if applicable;
- e. the unit sizes in which the product is or will be sold;
- f. each class of purchasers or expected purchasers of the product;
- g. the channels of trade by which the product reaches or will reach the ultimate consumer;
- h. all types of stores or forums in which the product is or will be offered or sold; and
- i. the persons most knowledgeable of each of the foregoing and all documents

APPLICANT'S RESPONSES TO INTERROGATORIES – SET ONE

relating thereto.

RESPONSE: Our commercial name is S.O.B cigars:

S.O.B #1: Robusto (54 x 5.30)

S.O.B #2: Churchill (50 x 7.5)

S.O.B #4: Panatelo (30 x 5)

S.O.B #5: Toro (50 x 6)

S.O.B #6: Corona (43 x 5.5)

S.O.B #7: Double Corona (43 x 6.5)

S.O.B #3: Torpedo (52 x 6)

A. See Dominican Republic trademark certificate.

B. The geographic scope of our use is worldwide.

C. The price of each box of cigars is approximately \$480.00 per box.

D. This is not calculated as of yet.

E. Each unit consists of 24 cigars in each box.

F. Our product is offered to the hotel, restaurant and Casino class of purchasers.

G. The channels of trade in the product reaches the consumer is by cigar retailers.

H. The forum shops in which the product is offered is in hotels, restaurants, and Casinos.

I. The person most knowledgeable is Fran S. Brooks and the Brooks Entertainment, Inc. legal team.

INTERROGATORY NO. 5: Explain the reason(s) for Applicant's adoption or intended adoption of Applicant's Mark for each product identified in response to Interrogatory No. 4 as well as the procedure followed by Applicant in its decision, and identify (a) all persons who

APPLICANT'S RESPONSES TO INTERROGATORIES – SET ONE

1 participated in each such decision, and (b) all documents relating thereto, including but not
2 limited to any trademark search reports.

3 **RESPONSE:** The adoption of our mark is to solicit and sell our cigars. Fran S. Brooks and
4 Wendy Diaz, Esq. participated in each discussion.

5 **INTERROGATORY NO. 6:** Identify each term, symbol, and/or designation other than
6 Applicant's Mark considered for use on or in connection with each product identified in response
7 to Interrogatory No. 4, and state whether such term, symbol and/or designation was ever used in
8 association with any of the products, explain why or why not, and identify (a) the persons most
9 knowledgeable thereof, and (b) all documents relating thereto.

10 **RESPONSE:** Fran S. Brooks is the most knowledgeable of our cigar products, which are
11 identified as the following:

12 S.O.B #1: Robusto (54 x 5.30)

13 S.O.B #2: Churchill (50 x 7.5)

14 S.O.B #4: Panatelo (30 x 5)

15 S.O.B #5: Toro (50 x 6)

16 S.O.B #6: Corona (43 x 5.5)

17 S.O.B #7: Double Corona (43 x 6.5)

18 S.O.B #3: Torpedo (52 x 6)

19 Fran S. Brooks and Brooks Entertainment, Inc.'s legal team are most knowledgeable of our
20 products.

21 **INTERROGATORY NO. 7:** Describe in detail each poll, survey, consumer study or market
22 research effort initiated by or on behalf of Applicant relating in any way to Applicant's Mark, or
23
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25
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27 **APPLICANT'S RESPONSES TO INTERROGATORIES – SET ONE**

1 to the packaging, labeling or advertising of the products identified in response to Interrogatory
2 No. 4, and identify (a) the persons most knowledgeable thereof, and (b) all documents relating
3 thereto.

4 **RESPONSE:** Our S.O.B brand is a global brand that is established worldwide through all forms
5 of media, including, but not limited to, many publications, newspapers, journals, periodicals.
6 Fran S. Brooks and the Brooks Entertainment, Inc. legal team are most knowledgeable.

7 **INTERROGATORY NO. 8:** Identify each employee or agent of Applicant or any independent
8 contractor who has or will have primary responsibility for the following services or functions
9 with respect to each product identified in response to Interrogatory No. 4, and for each such
10 entity, describe in detail the services that have been, are being or will be performed and the
11 inclusive dates of such
12 services:
13

- 14 (a) package design
15 (b) product design
16 (c) market research
17 (d) advertising and promotion
18

19 **RESPONSE:** Objection. This interrogatory is overly broad and requests the disclosure of trade
20 secrets.

21 **INTERROGATORY NO. 9:** Identify all persons involved on behalf of Applicant in planning
22 the past , current and future advertising, marketing , promotion , distribution and sale of products
23 under or in connection with Applicant 's Mark.

24 **RESPONSE:** Objection. This interrogatory is overly broad and requests the disclosure of trade
25
26

secrets.

INTERROGATORY NO. 10: With respect to each product identified in response to Interrogatory No. 4, identify all means by which the product will be, is being or has been advertised or promoted, and identify (a) the annual expenditures for each, and (b) the persons most knowledgeable thereof.

RESPONSE: Our product has been picked up in multiple magazines, publications, websites, and media campaigns. Fran S. Brooks and legal team is most knowledgeable.

INTERROGATORY NO. 11: Identify every trade show at which each product identified in response to Interrogatory No. 4 has been or will be advertised or promoted.

RESPONSE: Subject to, and without waiving the foregoing general objections, and without limiting Registrant's ongoing right to supplement this response, The IPCPR has promoted our cigar.

INTERROGATORY NO. 12: Identify each press or publicity release concerning any product promoted in association with Applicant's Mark issued or published, caused to be issued or published, or intended to be issued or published and, for each such release identify (a) all publications or other media in or through which information contained therein was disseminated, and (b) the person(s) responsible therefor.

RESPONSE: The following google search returns promotional efforts. A copy of the search is included in the Production of Documents.

<https://www.google.com/search?q=shon+brooks+invents+star+cigar&ie=utf-8&oe=utf-8&aq=t&rls=org.mozilla:en-US:official&client=firefox-a>

INTERROGATORY NO. 13: State whether Applicant has ever received any mail, inquiries,

1 complaints, requests for refunds, orders, checks, or other communications that in any manner
2 were intended for Opposer or that in any way indicated an association or connection between
3 Opposer and Applicant, and if so, with respect to each:

4 a. Identify:

5 i. each such caller, sender, addresser , or communicator;

6 ii. the date and place of occurrence;

7 iii. the substance of each such communication; and

8 iv. the person receiving the communication;

9 b. state whether or not any response to, or record of, the communication was made ;

10 c. identify all persons knowledgeable thereof ; and

11 d. identify all documents relating thereto.

12
13 **RESPONSE:** We have never had any complaints or refunds of our product.

14 **INTERROGATORY NO. 14:** Describe in detail Applicant's awareness and knowledge of
15 Opposer , Opposer 's business activities and Opposer's Marks prior to Applicant 's selection and
16 adoption of Applicant's Mark and the filing of its Application for the Mark , and identify (a) the
17 person(s) most knowledgeable thereof, and (b) all documents relating thereto.

18
19 **RESPONSE:** We have never heard of the JOB brand in connection with cigars.

20 **INTERROGATORY NO. 15:** State whether Applicant has ever received any objection to its
21 use or registration of Applicant's Mark other than the instant proceedings, and with respect to
22 each such objection , identify (a) the nature and basis of the objection , (b) when the objection
23 was made, (c) the disposition of the objection , (d) the persons most knowledgeable about the
24 objection , and (e) all documents relating to the objection.

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27 **APPLICANT'S RESPONSES TO INTERROGATORIES – SET ONE**
28

RESPONSE: Never.

INTERROGATORY NO. 16: State whether Applicant has ever objected to the use or registration of any other mark based on its similarity to Applicant's Mark , and if so, with respect to each such objection , identify (a) the mark or term to which the objection was made, (b) the nature and basis of the objection, (c) when the objection was made, (d) the disposition of the objection , (e) the persons most knowledgeable about the objection , and (f) all documents relating to the objection.

RESPONSE: Subject to, and without waiving the foregoing general objections, and without limiting Registrant's ongoing right to supplement this response, yes. We have protected our S.O.B marks in the past and will continue to protect all of our registered mark.

INTERROGATORY NO. 17: Identify by title, index number and tribunal each civil action or inter partes proceeding in which Applicant or any business, company or other entity identified in response to Interrogatory No. 1 has been or is involved , other than the present opposition proceeding , that refers or relates in any way to Applicant's Mark , and for each such proceeding identify (a) the persons most knowledgeable thereof; (b) all documents relating thereto and (c) its disposition or current status.

RESPONSE: Brooks Entertainment or Brooks Financial & Entertainment Consultants has never been involved in a civil action.

INTERROGATORY NO. 18: Identify all agreements to which Applicant or any business, company, or other entity identified in response to Interrogatory No. 1 has been or is a party that refer or relate in any way to Applicant's Mark, including all amendments and modifications thereto, and identify

(a) the persons most knowledgeable thereof, and (b) all documents relating thereto.

RESPONSE: Brooks Entertainment, Inc. has agreements with our legal team as well as our confidential cigar suppliers. A) Fran S. Brooks is most knowledgeable. b) Contracts regarding pricing and legal document review.

INTERROGATORY NO. 19: 19. Identify all facts that support Applicant's contention in its first Affirmative Defense that Opposer "fails to state facts sufficient to constitute a claim upon which relief can be granted," and identify (a) the persons most knowledgeable thereof, and (b) all documents relating thereto.

RESPONSE: Brooks Entertainment Inc. has a registered trademark for S.O.B (for cigars) in the Dominican Republic, it has marketed and promoted its cigar in the United States, it does not believe that there is a similarity between S.O.B. and JOB, and it does not believe that Opposer is in the business of selling cigars. Wendy Diaz Esq. and Fran S. Brooks are most knowledgeable. The S.O.B. trademark application is for cigars, not rolling papers.

INTERROGATORY NO. 20: Identify all facts that support Applicant's contention in its second Affirmative Defense that "the Opposition was filed without merit and for improper reasons, namely to hinder Applicant's business, and identify (a) the persons most knowledgeable thereof, and (b) all documents relating thereto.

RESPONSE: Brooks Entertainment Inc. has a registered trademark for S.O.B (for cigars) in the Dominican Republic, it has marketed and promoted its cigar in the United States, it does not believe that there is a similarity between S.O.B. and JOB, and it does not believe that Opposer is in the business of selling cigars. Wendy Diaz Esq. and Fran S. Brooks are most knowledgeable. The S.O.B. trademark application is for cigars, not rolling papers.

1 **INTERROGATORY NO. 21:** Identify all facts that support Applicant's contention in its third
2 Affirmative Defense that "the Opposition is a frivolous matter," and identify (a) the persons most
3 knowledgeable thereof, and (b) all documents relating thereto.

4 **RESPONSE:** Brooks Entertainment Inc. has a registered trademark for S.O.B (for cigars) in the
5 Dominican Republic, it have marketed and promoted its cigar in the United States, it does not
6 believe that there is a similarity between S.O.B. and JOB, and it does not believe that Opposer is
7 in the business of selling cigars. Wendy Diaz Esq. and Fran S. Brooks are most knowledgeable.
8 The S.O.B. trademark application is for cigars, not rolling papers.

9 **INTERROGATORY NO. 22:** Identify all facts that support Applicant's contention in its fourth
10 Affirmative Defense that "Opposer is barred from any recovery sought in the Opposition because
11 (Applicant's] mark is not confusingly similar to Opposer's registered trademarks," and identify
12

13 **RESPONSE:** Brooks Entertainment Inc. has a registered trademark for S.O.B (for cigars) in the
14 Dominican Republic, it has marketed and promoted its cigar in the United States, it does not
15 believe that there is a similarity between S.O.B. and JOB, and it does not believe that Opposer is
16 in the business of selling cigars. Wendy Diaz Esq. and Fran S. Brooks are most knowledgeable.
17 The S.O.B. trademark application is for cigars, not rolling papers.

18 **INTERROGATORY NO. 23:** Identify all facts that support Applicant's contention in its fifth
19 Affirmative Defense that "Opposer is barred from any recovery sought in the Opposition because
20 there is no likelihood of confusion between (Applicant's] mark and Opposer's registered
21 trademarks," and identify (a) the persons most knowledgeable thereof, and (b) all documents
22 relating thereto.
23

24 **RESPONSE:** Brooks Entertainment Inc. has a registered trademark for S.O.B (for cigars) in the
25
26

27 **APPLICANT'S RESPONSES TO INTERROGATORIES – SET ONE**
28

1 Dominican Republic, it has marketed and promoted its cigar in the United States, it does not
2 believe that there is a similarity between S.O.B. and JOB, and it does not believe that Opposer is
3 in the business of selling cigars. Wendy Diaz Esq. and Fran S. Brooks are most knowledgeable.
4 The S.O.B. trademark application is for cigars, not rolling papers.

5 **INTERROGATORY NO. 24:** Identify, on an interrogatory-by-interrogatory basis, each person
6 furnishing information upon which any part of any answer to these interrogatories is based,
7 indicating the parts based on information so furnished by each such person, and whether such
8 information is within the personal knowledge of such person, and if not within such person's
9 knowledge, identify the source of the information so furnished.

10 **RESPONSE:** Fran S. Brooks of S.O.B cigars or Brooks Entertainment Inc. furnished this
11 information.
12

13 Respectfully submitted.

14 Date: February 20, 2014
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16
17 By: 

18 Richard B. Jefferson, Esq.

19 M.E.T.A.L. Law Group, LLP
20 5757 Wilshire Boulevard, PH-3
21 Los Angeles, CA 90036
22 P: 323.289.2260, ext. 102
23 F: 323.289.2261

24 Counsel for Applicant
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26
27

1 **CERTIFICATE OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and
3 not a party to the within action; my business address is 5757 Wilshire Boulevard, PH-3, Los
4 Angeles, CA 90036.

5 I hereby certify that a true and complete copy of the foregoing, **Applicant's Responses**
6 **To Opposer's First Set Of Interrogatories**, has been served on Antony McShane, Esq. by
7 mailing said copy on February 20, 2014, via first class mail, postage paid, to:

8 Antony J. McShane
9 NEAL, GERBER & EISENBERG LLP
10 Two North LaSalle Street Suite 1700
11 Chicago , IL 60602-3801

12 Dated: February 20, 2014

13 By: 

14 Rosemary Luna
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APPLICANT'S RESPONSES TO INTERROGATORIES – SET ONE

EXHIBIT E

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Applicant.

GENERAL OBJECTIONS

B. Applicant objects to Opposer's discovery requests to the extent they seek information beyond the scope of permissible discovery, in that they are not relevant to the subject matter of this action, nor are they likely to lead to discovery of admissible evidence. Applicant concedes neither the relevancy of any requests nor the relevancy or admissibility of any information or documents provided in response thereto, and the fact that information is provided or documents produced in response to a particular request does not mean that it is probative of any issue in this action. Applicant reserves all objections to admissibility with regard to the

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statements or documents referred to in these requests or in answers thereto.

C. Applicant objects to the Opposer's discovery requests to the extent they seek proprietary, confidential, and/or sensitive business information, or information that implicates the privacy rights of any individuals.

D. Applicant objects to the extent that Opposer's discovery requests fail to describe the requested information with reasonable particularity, and to the extent they are vague, overbroad, unduly burdensome, and unnecessarily duplicative.

E. A response to a particular request that Applicant will answer in the future is not a representation that such information or documents exist or have ever existed, but instead a representation that, to the extent that such information or documents exist and are within the knowledge of Applicant, they will be provided in accordance with the terms of Applicant's response to that particular request, and subject to all objections thereto.

F. Applicant reserves the right to supplement its answers to these discovery requests.

RESPONSE TO DOCUMENT REQUESTS

The responses set forth below are consistent with the foregoing general objections.

RESPONSE DOCUMENT REQUEST NO. 1: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession. Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 2: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession.

RESPONSE TO OPPOSER'S FIRST REQUESTS FOR DOCUMENTS

Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 3: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession.

Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 4: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession.

Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 5: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent they exist and are in Applicant's possession. Applicant

will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 6: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession.

Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 7: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession.

Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 8: See the attached. Subject to, and without

RESPONSE TO OPPOSER'S FIRST REQUESTS FOR DOCUMENTS

1 waiving the foregoing general objections, Applicant is producing non-privileged documents
2 responsive to this request to the extent that they exist and are in Applicant's possession.

3 Applicant will produce additional documents if such are discovered.

4 **RESPONSE DOCUMENT REQUEST NO. 9:** See the attached. Subject to, and without
5 waiving the foregoing general objections, Applicant is producing non-privileged documents
6 responsive to this request to the extent that they exist and are in Applicant's possession.

7 Applicant will produce additional documents if such are discovered.

8 **RESPONSE DOCUMENT REQUEST NO. 10:** See the attached. Subject to, and without
9 waiving the foregoing general objections, Applicant is producing non-privileged documents
10 responsive to this request to the extent that they exist and are in Applicant's possession.

11 Applicant will produce additional documents if such are discovered.

12 **RESPONSE DOCUMENT REQUEST NO. 11:** See the attached. Subject to, and without
13 waiving the foregoing general objections, Applicant is producing non-privileged documents
14 responsive to this request to the extent that they exist and are in Applicant's possession.

15 Applicant will produce additional documents if such are discovered.

16 **RESPONSE DOCUMENT REQUEST NO. 12:** See the attached. Subject to, and without
17 waiving the foregoing general objections, Applicant is producing non-privileged documents
18 responsive to this request to the extent that they exist and are in Applicant's possession.

19 Applicant will produce additional documents if such are discovered.

20 **RESPONSE DOCUMENT REQUEST NO. 13:** See the attached. Subject to, and without
21 waiving the foregoing general objections, Applicant is producing non-privileged documents
22 responsive to this request to the extent that they exist and are in Applicant's possession.

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27 **RESPONSE TO OPPOSER'S FIRST REQUESTS FOR DOCUMENTS**

Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 14: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession.

Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 15: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession.

Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 16: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession.

Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 17: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession.

Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 18: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession.

Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 19: See the attached. Subject to, and without

1 waiving the foregoing general objections, Applicant is producing non-privileged documents
2 responsive to this request to the extent that they exist and are in Applicant's possession.

3 Applicant will produce additional documents if such are discovered.

4 **RESPONSE DOCUMENT REQUEST NO. 20:** See the attached. Subject to, and without
5 waiving the foregoing general objections, Applicant is producing non-privileged documents
6 responsive to this request to the extent they exist and are in Applicant's possession. Applicant
7 will produce additional documents if such are discovered.

8 **RESPONSE DOCUMENT REQUEST NO. 21:** See the attached. Subject to, and without
9 waiving the foregoing general objections, Applicant is producing non-privileged documents
10 responsive to this request to the extent that they exist and are in Applicant's possession.
11 Applicant will produce additional documents if such are discovered.

12 **RESPONSE DOCUMENT REQUEST NO. 22:** See the attached. Subject to, and without
13 waiving the foregoing general objections, Applicant is producing non-privileged documents
14 responsive to this request to the extent that they exist and are in Applicant's possession.
15 Applicant will produce additional documents if such are discovered.

16 **RESPONSE DOCUMENT REQUEST NO. 23:** See the attached. Subject to, and without
17 waiving the foregoing general objections, Applicant is producing non-privileged documents
18 responsive to this request to the extent that they exist and are in Applicant's possession.
19 Applicant will produce additional documents if such are discovered.

20 **RESPONSE DOCUMENT REQUEST NO. 24:** See the attached. Subject to, and without
21 waiving the foregoing general objections, Applicant is producing non-privileged documents
22 responsive to this request to the extent that they exist and are in Applicant's possession.
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27 **RESPONSE TO OPPOSER'S FIRST REQUESTS FOR DOCUMENTS**
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Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 25: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession.

Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 26: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession.

Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 27: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession.

Applicant will produce additional documents if such are discovered.

RESPONSE DOCUMENT REQUEST NO. 28: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession.

Applicant will produce additional documents if such are discovered.

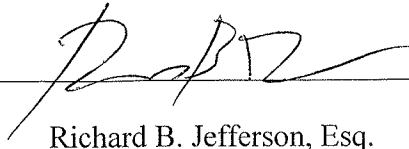
RESPONSE DOCUMENT REQUEST NO. 29: See the attached. Subject to, and without waiving the foregoing general objections, Applicant is producing non-privileged documents responsive to this request to the extent that they exist and are in Applicant's possession.

Applicant will produce additional documents if such are discovered.

RESPONSE TO OPPOSER'S FIRST REQUESTS FOR DOCUMENTS

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Date: February 20, 2014

By: 

Richard B. Jefferson, Esq.

M.E.T.A.L. Law Group, LLP
5757 Wilshire Boulevard, PH-3
Los Angeles, CA 90036
P: 323.289.2260, ext. 102
F: 323.289.2261

Counsel for Applicant

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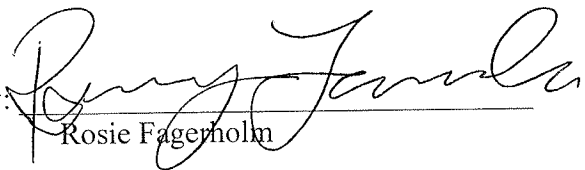
CERTIFICATE OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 5757 Wilshire Boulevard, PH-3, Los Angeles, CA 90036.

I hereby certify that a true and complete copy of the foregoing, **Applicant's Responses To Opposer's Requests For Production of Documents**, has been served on Antony McShane, Esq. by mailing said copy on February 20, 2014, via first class mail, postage paid, to:

Antony J. McShane
NEAL, GERBER & EISENBERG LLP
Two North LaSalle Street Suite 1700
Chicago , IL 60602-3801

Dated: February 20, 2014

By: 
Rosie Fagerholm

RESPONSE TO OPPOSER'S FIRST REQUESTS FOR DOCUMENTS

EXHIBIT F

1 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
2 **BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

3 REPUBLIC TECHNOLOGIES (NA), LLC) IN THE MATTER OF:
4 Opposer,) OPPOSITION NO: 91212024
5 v.) SERIAL NO: 85/551,808
6) FOR THE MARK: S.O.B.
7 BROOKS ENTERTAINMENT, INC.,) FILED ON: JULY 23, 2013
8 A California Corporation))
9 Applicant.) APPLICANT'S RESPONSES TO
) OPPOSER'S SECOND REQUESTS FOR
) PRODUCTION OF DOCUMENTS
)

10 **GENERAL OBJECTIONS**

11 A. Applicant objects to Opposer's discovery requests to the extent that they
12 seek information and seek to impose duties beyond the scope of the Federal Rules of Civil
13 Procedure, including any information protected by the attorney-client privilege, the work product
14 doctrine, or any other applicable privilege. The inadvertent disclosure of such information shall
15 not constitute a waiver of any right of non-disclosure, or the waiver of any other ground for
16 objecting to the production of such information.

17 B. Applicant objects to Opposer's discovery requests to the extent they seek
18 information beyond the scope of permissible discovery, in that they are not relevant to the subject
19 matter of this action, nor are they likely to lead to discovery of admissible evidence. Applicant
20 concedes neither the relevancy of any requests nor the relevancy or admissibility of any
21 information or documents provided in response thereto, and the fact that information is provided
22 or documents produced in response to a particular request does not mean that it is probative of
23 any issue in this action. Applicant reserves all objections to admissibility with regard to the
24

25 **APPLICANT'S RESPONSES TO OPPOSER'S SECOND REQUESTS FOR DOCUMENTS**
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statements or documents referred to in these requests or in answers thereto.

C. Applicant objects to the Opposer's discovery requests to the extent they seek information that implicates the privacy rights of any individuals.

D. Applicant objects to the extent that Opposer's discovery requests fail to describe the requested information with reasonable particularity, and to the extent they are vague, overbroad, unduly burdensome, and unnecessarily duplicative.

E. A response to a particular request that Applicant will answer in the future is not a representation that such information or documents exist or have ever existed, but instead a representation that, to the extent that such information or documents exist and are within the knowledge of Applicant, they will be provided in accordance with the terms of Applicant's response to that particular request, and subject to all objections thereto.

F. Applicant reserves the right to supplement its answers to these discovery requests.

RESPONSE TO DOCUMENT REQUESTS

The responses set forth below are consistent with the foregoing general objections.

RESPONSE DOCUMENT REQUEST NO. 1: See the attached documents (the "Second Set of Documents") commencing with 0121 to stay consistent with Opposer's numbering of the initial documents and supplemental documents [BE000001 – BE000120] "First Set of Documents"). Subject to, and without waiving the foregoing general objections, Applicant is producing the non-privileged Second Set of Documents responsive to this request to the extent that they exist and are in Applicant's possession. Applicant will produce additional documents if such are discovered.

APPLICANT'S RESPONSES TO OPPOSER'S SECOND REQUESTS FOR DOCUMENTS

1 **RESPONSE DOCUMENT REQUEST NO. 2:** Subject to, and without waiving the foregoing
2 general objections, Applicant is producing the non-privileged Second Set of Documents
3 responsive to this request to the extent that they exist and are in Applicant's possession.
4 Applicant will produce additional documents if such are discovered.

5 **RESPONSE DOCUMENT REQUEST NO. 3:** Subject to, and without waiving the foregoing
6 general objections, Applicant is producing the non-privileged Second Set of Documents
7 responsive to this request to the extent that they exist and are in Applicant's possession.
8 Applicant will produce additional documents if such are discovered.

9 **RESPONSE DOCUMENT REQUEST NO. 4:** Subject to, and without waiving the foregoing
10 general objections, Applicant is producing the non-privileged Second Set of Documents
11 responsive to this request to the extent that they exist and are in Applicant's possession.
12 Applicant will produce additional documents if such are discovered.

13 **RESPONSE DOCUMENT REQUEST NO. 5:** Subject to, and without waiving the foregoing
14 general objections, Applicant is producing copies of documents related to Applicant's Dominican
15 Republic trademark registration. Applicant produced these documents with the First Set of
16 Documents. Applicant will produce additional documents if such are discovered. These
17 proceedings do not involve a cancellation claim for the underlying Dominican Republic
18 trademark registration.
19
20

21 **RESPONSE DOCUMENT REQUEST NO. 6:** Subject to, and without waiving the foregoing
22 general objections, Applicant produced these documents with the First Set of Documents.
23 Applicant will produce additional documents if such are discovered. These proceedings do not
24 involve a cancellation claim for the underlying Dominican Republic trademark registration.
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27 **APPLICANT'S RESPONSES TO OPPOSER'S SECOND REQUESTS FOR DOCUMENTS**
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Date: May 16, 2014

By: 

Richard B. Jefferson, Esq.

M.E.T.A.L. Law Group, LLP
5757 Wilshire Boulevard, PH-3
Los Angeles, CA 90036
P: 323.289.2260, ext. 102
F: 323.289.2261

Counsel for Applicant

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CERTIFICATE OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 5757 Wilshire Boulevard, PH-3, Los Angeles, CA 90036.

I hereby certify that a true and complete copy of the foregoing, **Applicant's Responses To Opposer's Second Requests For Production of Documents**, has been served on Antony McShane, Esq. by mailing said copy on May ____ 2014, via first class mail, postage paid, to:

Andrew S. Fraker, Esq.
NEAL, GERBER & EISENBERG LLP
Two North LaSalle Street Suite 1700
Chicago, IL 60602-3801

Dated: May 16, 2014

By: 

Rosemary Fagerholm

APPLICANT'S RESPONSES TO OPPOSER'S SECOND REQUESTS FOR DOCUMENTS

EXHIBIT G

LEO AUGUSTO CURIEL BOBADILLA

OFFICIAL TRANSLATOR OF SANTIAGO

Phone: 809-582-5053, Mobile: 809-223-6501

E-mail: leocuriel01@hotmail.com, curiel.leo@gmail.com**CONFIDENTIAL**

The undersigned, LEO AUGUSTO CURIEL BOBADILLA, Official Translator for the Circuit Court of Santiago de los Caballeros, Dominican Republic; hereby certify that the following document written in Spanish, has been translated to the English version, to my best knowledge and belief, as follows:

CIGAR MANUFACTURING AND SALE AGREEMENT

BY AND BETWEEN: TABACOS CARBONELL, S.A., a business entity organized under the laws of the Dominican Republic, Taxpayer's Reference Number 1-02006601, with registered office in the sector of Palmarejo, Municipality of Villa Gonzalez, province of Santiago, Dominican Republic and/or JORGE FRANCISCO CARBONELL FARINA, Dominican, of legal age, married, entrepreneur, holder of identity and electoral card No.031-0083435-1, domiciled and resident at house No.4 on 7 Street, Reparto La Rinconada of this city and municipality of Santiago, Dominican Republic, who is acting personally and in his capacity as President of the referred trade body, who shall hereinafter be referred to as THE MANUFACTURER, or by his own name, party of the first part, and

BROOKS ENTERTAINMENT INC., an entity organized under the laws of the United States of America, with corporate headquarters in the State of California (U.S.A.), Taxpayer's Registration number 61-1421154 registered in the Department of Alcohol and Tobacco Tax and Trade Bureau under number CA-T i-15144 duly represented by Mr. FRAN S. BROOKS who is acting in his capacity as President, who shall hereinafter be referred to as THE BUYER or by his own name, party of the second part;

CONSIDERING: That THE MANUFACTURER has been a manufacturer of short and long filler cigars of high and medium quality for over one hundred nineteen (119) years, for their sale in the local market and for export.-

CONSIDERING: That THE BUYER has relations in the foreign market that enable him to commercialize the products manufactured by THE MANUFACTURER, both with the exclusive

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trademark of THE MANUFACTURER as well as with any other trademark property of THE BUYER.-

CONSIDERING: That the MANUFACTURER is willing to manufacture for THE BUYER the cigars of the quality and in the quantity the latter requires, under the terms and conditions set forth in this agreement.-

In the understanding that this preamble constitutes an integral part of this agreement, the parties,

AGREE AND CONVENE THE FOLLOWING:

FIRST: THE MANUFACTURER shall manufacture for THE BUYER, in his facilities located in the sector of Palmarejo, Municipality of Villa Gonzales, Province of Santiago, Dominican Republic, the cigars the latter requires, upon previous selection by THE MANUFACTURER of the appropriate tobacco seedbed and lands to raise the crops that he will use in the tobacco blends during production, with the best quality, both the long and short filler tobaccos. These tobaccos shall be produced in an identical manner as those supplied to and approved by THE BUYER.-

PARAGRAPH: The blend used in the samples supplied is completely secret and of exclusive use of THE BUYER.-

SECOND: In addition to the commitment of selecting the seedbed and the lands where the tobacco to be used in these blends shall be raised, THE MANUFACTURER also commits to provide workmanship that shall be used in manufacturing the referred cigars, as well as all the other phases of manufacturing, such as, for example: revision at the shed, cigar banding, packaging and maintenance (resting and ageing), being the responsibility of THE BUYER the provision of bands, boxes, warranty seals, chests and other exclusive objects that personify these cigars. The bands shall be placed in the center of the cigar and the logo of the band, which reads "SHON BROOKS", shall be placed at the top or at the end of the cigar. The seal on the boxes shall be placed at the bottom and not on the sides; THE MANUFACTURER is responsible for the complete quality of the cigars and shall repair, at his own cost, damages caused, as well as the cost of returns and new shipments.-

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PARAGRAPH: THE MANUFACTURER hereby expressly accepts and acknowledges that these trademarks are the absolute property of THE BUYER (BROOKS ENTERTAINMENT, INC.); therefore, it is absolutely forbidden to THE MANUFACTURER to use any of these objects or trademarks in any other product that do not belong to THE MANUFACTURER and are not expressly ordered by him.-

THIRD: THE BUYER hereby commits to send to THE MANUFACTURER the purchase orders for the amount and the trademark of the products required via UNITED PARCEL SERVICE (UPS), and must send, along with the purchase order, an amount equal to FIFTY PER CENT (50%) of the total purchase value, and hereby commits to paying the remaining FIFTY PERCENT (50%) of the total invoice value against the shipping documents by means of the bank that is designated for this, or by the same means that the purchase order was received (UPS). THE MANUFACTURER and THE BUYER, in mutual agreement, shall determine the delivery date of the entire order, having granted the necessary time to manufacture and send the cigars to THE BUYER.-

FOURTH: The prices that THE BUYER must pay to THE MANUFACTURER for the several sizes per thousand shall be the following:

Name	Size	Price per thousand
ROBUSTO	50 x 5	US\$1,351.00
TORPEDO	52 x 6	US\$1,410.00

THE BUYER shall pay the total value of the invoices in United States currency (U.S. Dollar) and shipments shall be made FREE ON BOARD (F.O.B.) at a Dominican port or airport or via a previously designated courier.-

Paragraph I. These prices may vary in accordance with increases in tobacco manufacturing and/or salaries approved by the Government for this sector and, in the same manner, the manufacturing of a new type and size of cigars shall be subject to the debate and approval of the price per thousand, which must be communicated and approved by the Parties before the issuance of the next order.-

Paragraph II. Mr. JOSE RIVAS, or any other person designated by S.O.B. CIGARS shall inspect the cigars before their shipment to the United States and approve their quality and

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the type of packaging. The approval by the representative or person designated by S.O.B. CIGARS of the preceding conditions shall discharge THE MANUFACTURER of the penalties provided in the final portion of the SECOND paragraph of this agreement.

FIFTH: THE BUYER hereby commits to initially acquire an annual production between FORTY THOUSAND (40,000) and FIFTY THOUSAND (50,000) cigars, during the first year, equivalent to approximately FOUR THOUSAND (4,000) cigars per month.

PARAGRAPH: In the event THE BUYER or THE MANUFACTURER wish to terminate this agreement, due to any cause, all of the boxes, bands and other materials in the hands of THE MANUFACTURER of the trademarks property of THE BUYER, shall be returned and delivered to the person designated for this, under receipt in acknowledgement of the said delivery.-

SIXTH: The parties declare that this contract has been drafted bona fide, without any time limit, and the same can be revised when the circumstances may require so, and the parties grant jurisdiction to the courts of the Judicial Department of Santiago, Dominican Republic, for the solution of any differences that may arise regarding the interpretation or enforcement of the contract.

SEVENTH: The Parties make election of domicile in the following manner: THE MANUFACTURER at any of the above-mentioned addresses and THE BUYER at the house marked with number 14 of Three Street, Urbanizacion Brisas del Mar of the city and Municipality of Santo Domingo Este, Dominican Republic, which is the residence of Mr. JOSE RAFAEL DIAZ RIVAS, who is the representative for THE BUYER in the Dominican Republic, and where may notices of any acts that may be necessary for resolving conflicts which may arise may be validly delivered.-

EIGHTH: The present agreement may be signed in duplicate, with one and/or several copies sent via e-mail or fax, as well as any other document executed and/or subscribed by any of the Parties and sent to the other Party by Internet network transmission, via e-mail and/or fax, and the same have complete legality and effect, as if having been delivered by hand, as long as the copy of the e-mail and/or

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fax of the sender Party has a transmission identifier (TI) or a Transmitting Terminal Identifier (TTI), in addition to the date and time it was electronically placed by the telephone server or the Internet transmitter. Electronic Data Transmissions (EDT) shall be considered valid and executable regarding the provisions of this agreement, in accordance with:

- 1) The United States Public Law No.106-229 on "Electronic Signatures in Global and National Commerce" and other applicable Laws in accordance with the UNICITRAL Model Law on electronic signatures (23001);
- 2) The Geneva Electronic Commerce Agreement (ECE/TRADE/257 dated May 2000) approved by the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT);
- 3) EDT documents shall be subject to Regulation No.95/46/CEE of the European Economic Community, as applies. Each of the Parties may request a copy of any document which has been previously transmitted by electronic means; however, this request shall in no manner serve as an excuse for delay of the parties of complying with the obligations and duties by virtue of the EDT instruments.-

Issued on two originals of the same content and effect, one for each of the parties, on FOUR (4) numbered pages, the first two initialized and the last signed by the Parties in the city of Santiago de los Caballeros, Dominican Republic, today SEPTEMBER 3rd of the year TWO THOUSAND THIRTEEN (2013).-

THE BUYER:
BROOKS ENTERTAINMENT

FRAN S. BROOKS

THE MANUFACTURER:
TABACOS CARBONELL S.A.
and/or TABACOS CARBONELL F.
(Signature of JORGE FRANCISCO CARBONELL F.)
(Seal of TABACOS CARBONELL, PRESIDENT).

I, DR. JUAN ANTONIO ALVAREZ CASTELLANOS, Notary Public for the Municipality of Santiago, with identity card No.031-0033900-5, registered in the Association of Notary Public under number 945 with law firm open at house number 3 of Italia Street, Kokette sector of this city of Santiago de los Caballeros, Dominican Republic, hereby CERTIFY: That the

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preceding signatures were placed voluntarily by Fran S. Brooks and Jorge Francisco Carbonell Farina, the first of American nationality and who signed the same in accordance with the provisions in section EIGHTH of this agreement, via Internet and/or fax, and the second Dominican, who I hereby certify is personally known to me and who signed in my presence, of personal particulars registered herein. Santiago de los Caballeros, September 3rd, 2013.-

DR. JUAN ANTONIO ALVAREZ CASTELLANOS
NOTARY PUBLIC

The above translation was made by the Official Translator of the Circuit Court of the city of Santiago de los Caballeros, Dominican Republic, on September 30th, 2013; registration book No.54, under No.291.

0100

LEO AUGUSTO CURIEL
Official Translator



EXHIBIT H

OMB No. 1513-0107 (02/28/2013)

DEPARTMENT OF THE TREASURY
ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB)

MONTHLY REPORT - TOBACCO PRODUCTS OR PROCESSED TOBACCO IMPORTER

INSTRUCTIONS: Please type or print. Prepare in duplicate, retain the copy, and submit the original to the TTB National Revenue Center, 550 Main St, Ste 8002, Cincinnati, Ohio 45202-5215, not later than the 15th day of the month following the end of the month for which report is made. Combine data for all locations covered by a single permit. Report quantities of chewing tobacco, snuff, pipe tobacco, roll-your-own tobacco, and processed tobacco in pounds and fractions of a pound rounded to two decimal places.

1. NAME OF IMPORTER

Brooks Entertainment Inc

3. MONTH AND YEAR

6/13

4. PERMIT NUMBER

CA-TT-15144

5. EMPLOYER IDENTIFICATION NUMBER (EIN)

01-14211574

2. PRINCIPAL BUSINESS ADDRESS (Number, Street City, State, and ZIP Code)

55 Spinnaker Way
Coronado, CA. 92118

ARTICLE	SMALL CIGARETTES (Number) (a)	LARGE CIGARETTES (Number) (b)	SMALL CIGARETTES (Number) (c)	SMALL CIGARS (Number) (d)	LARGE CIGARS (Number) (e)	SHUFF (Pounds) (f)	CHWING TOBACCO (Pounds) (g)	PIPE TOBACCO (Pounds) (h)	ROLL-YOUR-OWN TOBACCO (Pounds) (i)	PROCESSED TOBACCO (Pounds) (j)
6. On Hand, Beginning of Month:	n/a	n/a	n/a	n/a	0	n/a	n/a	n/a	n/a	n/a
7. Imported and Released from Customs Custody into the United States	11	11	11	11	8	11	11	11	2	11
8. Received from Other Sources	11	11	11	11	0	11	11	11	11	11
9. Overage Disclosed by Inventory	11	11	11	11	0	11	11	11	11	11
10. Returned from Domestic Customers	11	11	11	11	0	11	11	11	11	11
11. TOTAL	0	0	0	0	10	0	0	0	0	0

TTB F 5220.6 (02/2010) PREVIOUS VERSIONS SUPERSEDED AND MAY NOT BE USED

Page 1 of 3

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ARTICLE	SMALL CIGARETTES (Number)	LARGE CIGARETTES (Number)	SMALL CIGARS (Number)	LARGE CIGARS (Number)	SHUFF (Pounds)	CHEMICAL TOBACCO (Pounds)	PIPE TOBACCO (Pounds)	ROLL-YOUR-OWN TOBACCO (Pounds)	PROCESSED TOBACCO (Pounds)
	(a)	(b)	(c)	(d)	(e)	(f)	(g)	(h)	(i)
12. Removed for Export Purposes	n/a	n/a	n/a	0	n/a	n/a	n/a	n/a	n/a
13. Transferred to Domestic Customers	1	1	1	0	1	1	1	1	1
14. Removed to a Foreign Trade Zone	1	1	1	0	1	1	1	1	1
15. Returned to Customs Custody	1	1	1	0	1	1	1	1	1
16. Lost	1	1	1	0	1	1	1	1	1
17. Destroyed	1	1	1	1	1	1	1	1	1
18. Shortages Disclosed By Inventory	1	1	1	0	1	1	1	1	1
19. On Hand End of Month	1	1	1	3	1	1	1	1	1
20. TOTAL	0	0	0	4	0	0	0	0	0

Under the penalties of perjury, I declare that I have examined this report and, to the best of my knowledge and belief, it is true, correct, and complete.

21. SIGNATURE *[Signature]* 22. DATE 6/15/13 23. E-MAIL ADDRESS *ShawBrooks@gmail.com*

24. TITLE OR STATUS (State whether individual owner, partner, member of a limited liability company, or if officer of corporation, give title) *CEO*

25. TELEPHONE NUMBER *(609) 575 0242*

DATED AUDITED

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PAPERWORK REDUCTION ACT NOTICE

This request is in accordance with the Paperwork Reduction Act of 1995. The purpose of this information collection is to establish product accountability and to compile data for statistical purposes. The information is mandatory (26 U.S.C. 5722).

The estimated average burden associated with this collection of information is 56 minutes per respondent or record keeper, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be addressed to the Reports Management Officer, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Washington, DC 20220.

An agency may not conduct or sponsor, and an individual is not required to respond to, a collection of information unless it displays a current, valid OMB control number.

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EXHIBIT I

www.Motorola.com/MotoX

First Smartphone Designed By You. Assembled In The USA. Learn More.

(May 03, 2013)

Santo Domingo, Dominican Republic. May 03, 2013 --(PR.com)-- Santo Domingo is the busiest cigar capital in the world. After 3 years in the making comes along a 'star cigar' created for the cigar aficionado and enthusiast. Cigars are ranked and graded with the attempt of achieving the highest score in points. The (GPA) Grade Point Average and (QPA) Quality Point Average of the newest brand is based on astuteness, innovation, creativity, intelligence, and being accountable for ones status. This brand was created for the 'vanquisher' in making wise choices and decisions in life. Here is a cigar made for the gifted critical thinker and extreme competitor. The S.O.B Cigar Rubusto and Torpedo will be needed for all states in the United States of America upon the launch date. (www.SOBcigars.com) It will debut in the 'Habena Club Cafe' located in the Gaslamp, Westfield Horton Plaza, in front of Nordstrom. When asked of Kavah, who is the owner of the 5 star Cigar boutique on 'Yelp', how he feels about the cigar coming to his shop first? 'I'm very excited! Shon Brooks is coming back to Horton Plaza baby!' <http://www.facebook.com/pages/Habena-Club-Cafe/16221200326/>, photo.php?fbid=182224115326&set=182221450326%3C38.162221200326&type=1&theater

In regards to the quality of the S.O.B cigars, Jose Ruves, a Santo Domingo S.O.B Cigar factory representative says, "This cigar has been produced by (Tobacos Carbonell S.A., Founded 1894) a cigar factory with more than 100 years of experience in the manufacture of cigars. This is a tradition that goes from father to son and grandchildren, that's why the municipality of Villa González has declared this cigars company as 'Pride and example of family unity'."

Investor.jamaicantimes.com/bnn.jamaicantimes/news/read?GUID=24103901

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By: PR.com

May 03, 2013 at 17:58 PM EDT

Shon Brooks Invents "Star Cigar" for Dominican Republic

Santo Domingo, Dominican Republic, May 03, 2013 --(PR.com)-- Santo Domingo is the busiest cigar capital in the world. After 3 years in the making comes along a 'star cigar' created for the cigar aficionado and enthusiast. Cigars are ranked and graded with the attempt of achieving the highest score in points. The (GPA) Grade Point Average and (QPA) Quality Point Average of the newest brand is based on astuteness, innovation, creativity, intelligence, and being accountable for ones status. This brand was created for the 'vanquisher' in making wise choices and decisions in life. Here is a cigar made for the gifted critical thinker and extreme competitor. The S.O.B Cigar Rubusto and Torpedo will be headed for all states in the United States of America upon the launch date. (www.SOBcigars.com) It will debut in the "Habana Club Cafe" located in the Gaslamp, Westfield Horton Plaza, in front of Nordstrom. When asked of Kaveh, who is the owner of the 5 star Cigar boutique on 'Yelp', how he feels about the cigar coming to his shop first? "I'm very excited! Shon Brooks is coming back to Horton Plaza baby!" <http://www.facebook.com/pages/Habana-Club-Cafe/1022212003281/photo.php?fbid=18222415328&set=a.182221450328.160388.182221200328&type=1&theater>

In regards to the quality of the S.O.B cigars, Jose Rivas, a Santo Domingo S.O.B Cigar factory representative says, "This cigar has been produced by (Tobaccos Carbonell S.A., Founded 1894) a cigar factory with more than 100 years of experience in the manufacture of cigars. This is a tradition that goes from father to son and grandchildren, that's why the municipality of Villa González has declared this cigars company as 'Pride and example of family unity'."

As for producing the cigars, S.O.B, the manufacturer has selected a mixture of the best Dominican tobacco leaves. Even the wrapper is of the type Carbonell and Quintin which gives a special texture, aroma, taste or flavor. The S.O.B cigars is 100% hand made and slated for a yearly production of 50,000 cigars.

The cigar box is made of Okoume wood, painted black with a gold leaf decoration on silver. The inside is decorated in black corduroy with the logo of the cigar. That is what gives the package a presentation of elevated quality and elegance.

About the blends:

S.O.B #1: Robusto (54 x 5.30)

S.O.B #2: Churchill (50 x 7.5)

BE000031

EXHIBIT J


[BUSINESS](#) [ARTICLE](#) [PRESS RELEASE](#)
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Shon Brooks "Star Cigar" Hits the Hard Rock Casino

The Dominican Republic - Punta Cana Hard Rock Casino exposes the S.O.B™ Dominican cigar brand.

Punta Cana, Dominican Republic, July 12, 2013 --(PR.com)-- The one hundred percent S.O.B™ exclusive extra premium dominican cigar brand, after 3 years in the making, gets debut at the 5 star luxury Hard Rock Hotel and Casino, Punta Cana. The casino has over 450 slots, a Rock Spa below, and it is the largest casino in Punta Cana. Also, this all inclusive 5 star property on hotels.com (<http://www.hotels.com/ho309743/hard-rock-hotel-casino-punta-cana-all-inclusive-punta-cana-dominican-republic/>) rests on a gigantic 121 acres worth of premier beach front with stunning views. The S.O.B™cigar brand is brought to light in a timeless environment built by the 'Hardest Legendary Rockers' of all time! This is where the best 'Rock Stars' are showcased and exhibited.

The S.O.B™cigar leaves date back to 1894 through Tabacqueria Carbonell CXA. Brooks Entertainment Inc. is the registered copyright and trademark owner of the S.O.B™extra premium cigars and logo. According to the (BOE) Board of Equalization of the state of California (USA) list Brooks Entertainment Inc. as exclusive importer and distributor to the United States of America and internationally. This gives the private corporation strategic control over the product brand placement in all states and globally for resort hotels, boutiques and casinos. www.SOBcigars.com



The hit-maker and inventor of the extra premium S.O.B™cigar brand, Shon Brooks, Identified Game Changer by Invention magazine, named Superhero by 'On Wall Street' magazine and Financial Planning magazine as noted has attracted an enormous amount of media press from his recent inventions. It is anticipated that by Christmas, the tariff on the S.O.B™cigars is projected to grow during holiday time. "I want to thank the Hard Rock Hotel & Casino staff especially Liz Mariella Garrido Pargas and Carlos Gonzalez for the VIP casino tour, guest entry passes, photo shoot arrangements and endorsement contract. More importantly, I want to thank them for providing the opportunity to shock and excite the world with the S.O.B™cigar invention," says Shon Brooks, CEO.

The S.O.B™luxury cigar brand was created for the 'Vanquisher' that plays the cards that has been dealt in life to win and not fold! It is vital that you remain ethical at all times even though others may bend the rules of life. Pressing on is when you begin to obtain Rock Star status!

For more information on obtaining the S.O.B™extra premium cigars while visiting the Hardrock Casino, Punta Cana:

Marketing Management Contact Information: Carlos Gonzalez x4712, www.hardrockhotelpuntacana.com, 809-731-0099, US M: 787-381-2507

Images illustrated in the copyright photograph above is Jose Rivas (L) Carlos Gonzalez (C) and Shon Brooks (R)

Contact Information

S.O.B Cigars

Paris Crosby (Retailer and Public Relations Calls Only)

619-575-0242

[Contact](#)

www.SOBcigars.com

S.O.B Cigar Authorized Retailer - Habana Club Cafe 858-231-6673 780 4th Ave

(between G St & F St)

San Diego, CA 92101

Neighborhood: Gaslamp

[Click here to view the list of recent Press Releases from S.O.B cigars](#)

EXHIBIT K



<http://www.sobcigars.com/>

8 captures

5 May 13 - 2 Jan 14

Go

Close

MAY JUN JUL

6



2012 2013 2014

Help

Fill in your email address & we'll contact you for preorders leading up to our NEW launch!



SUBSCRIBE

In The Meantime Please Check Out Our Social Media Profiles

SURGEON GENERAL WARNING:

Cigars are not a safe
alternative to cigarettes

EXHIBIT L

Richard Jefferson richardjefferson@metallawgroup.com

[FWD: S.O.B Luxury Cigars]

1 message

sales@sobcigars.com <sales@sobcigars.com>
 To: richardjefferson@metallawgroup.com
 Cc: shonbrooks@sobcigars.com

Fri, Apr 25, 2014 at 8:01 PM

Hello,

Enclosed is the letter that was sent to the retailers for pre-order. Here are the following email addresses for the retailers that requested the S.O.B cigars. They were also BCC (Blind copied).

[REDACTED]

Customer Service
 S.O.B cigars (a Brooks Entertainment Inc. Company)
 619-575-0242 Tel.
 619-575-7688 Fax
 www.SOBcigars.com

PS. Thanks. More documents will follow

----- Original Message -----

Subject: S.O.B Luxury Cigars

From: <sales@sobcigars.com>

Date: Fri, June 28, 2013 1:29 pm

To:

Thank you very much for your interest in S.O.B Premium Cigars™ Your pre-order request has been received, and we will be in touch with further information on how you can purchase these ultra-luxury high-quality S.O.B brand cigars.

You have reached our retail ordering website. If you have a store, restaurant, hotel or media outlet, a purchasing link below has been provided below for exclusive ordering. Should you be a 'STAR' consumer, thank you for your order and interest, and please contact the closest authorized S.O.B cigar™ retailer directly. (see press release <http://www.pr.com/press-release/489577>)

Here are the qualities of the S.O.B Cigar™ that you are sure to enjoy:

- * Since 1894
- * Our cigars are 100% hand-made, using the best mixture of Dominican tobacco leaves
- * Even the wrappers of the cigars are of the Carbonell and Quintin type, which gives

the cigar a special texture, aroma and taste

* The decorative box, containing 24 S.O.B cigars, is highly attractive, made of the best Okoume wood and painted black with a gold leaf decoration on silver. Inside, it is decorated in black with the logo of the cigar, which gives the package a presentation of high quality and elegance.

* Municipality of Villa González has declared this cigar manufacturing company as "Pride and Example of Family Unity"

* Exclusive

Congratulations, you've made an excellent choice in purchasing S.O.B™ Cigars! We look forward to serving you.

Sincerely,

Paris Crosby
News Media & Public Relations
S.O.B cigars (a Brooks Entertainment Inc. Company)™
www.SOBcigars.com

PS. This cigar is for the individual who is a 'Vanquisher' and critical thinker who makes wise decisions in life!

Pre-ordering Information for Robusto and Torpedo see below:

S.O.B Luxury Robusto cigars (54 x 5.30)
https://www.paypal.com/cgi-bin/webscr?cmd=_s-xclick&hosted_button_id=QQ6LK2N7GWDEQN

S.O.B Luxury Torpedo cigars (52 x 6)
https://www.paypal.com/cgi-bin/webscr?cmd=_s-xclick&hosted_button_id=3X4AK2EGNPE3L

##



S.O.B Cigar .jpg
19K

EXHIBIT M

1 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
2 **BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

3 REPUBLIC TECHNOLOGIES (NA), LLC) IN THE MATTER OF:
4 Opposer,) OPPOSITION NO: 91212024
5 v.) SERIAL NO: 85/551,808
6) FOR THE MARK: S.O.B.
7 BROOKS ENTERTAINMENT, INC.,) PUBLISHED ON: JULY 23, 2013
8 A California Corporation)
9 Applicant.) APPLICANT'S OBJECTIONS AND
) RESPONSES TO OPPOSER'S FIRST SET
) OF REQUESTS FOR ADMISSIONS

10 **OBJECTIONS AND RESPONSES TO OPPOSER'S**
11 **FIRST SET OF REQUESTS FOR ADMISSIONS**

12 **REQUEST FOR ADMISSION NO. 1:** Admit that when Applicant was issued its Dominican
13 trademark registration, Applicant did not maintain a permanently fixed place of business in the
14 Dominican Republic.

15 **RESPONSE:** Applicant objects to this Request on the grounds that it seeks facts and information
16 that are neither relevant to the issues in this action nor reasonably calculated to lead to the
17 discovery of admissible evidence. Applicant further states that the National Office of Industrial
18 Property in the Dominican Republic performs due diligence prior to issuing Trademark
19 Registrations. Applicant denies that it did not maintain a permanently fixed place of business in
20 the Dominican Republic when Applicant was issued its Dominican trademark registration.

21 **REQUEST FOR ADMISSION NO. 2:** Admit that when Applicant was issued its Dominican
22 trademark registration, Applicant did not maintain production facilities for cigars or any other
23 goods in the Dominican Republic.
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27 **APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S REQUESTS FOR ADMISSIONS**
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1 **RESPONSE:** Applicant objects to this Request on the grounds that it seeks facts and information
2 that are neither relevant to the issues in this action nor reasonably calculated to lead to the
3 discovery of admissible evidence. Applicant further states that the National Office of Industrial
4 Property in the Dominican Republic performs due diligence prior to issuing Trademark
5 Registrations. Applicant denies that it did not maintain production facilities for cigars or any
6 other goods in the Dominican Republic when Applicant was issued its Dominican trademark
7 registration. Tabacqueria Carbonell CXA manufactured the cigars and assembled the product in
8 2011.

9 **REQUEST FOR ADMISSION NO. 3:** Admit that when Applicant was issued its Dominican
10 trademark registration, Applicant did not have a business office in the Dominican Republic.

11 **RESPONSE:** Applicant objects to this Request on the grounds that it seeks facts and information
12 that are neither relevant to the issues in this action nor reasonably calculated to lead to the
13 discovery of admissible evidence. Applicant further states that the National Office of Industrial
14 Property in the Dominican Republic performs due diligence prior to issuing Trademark
15 Registrations. Applicant denies that it did not have a business office in the Dominican Republic
16 when Applicant was issued its Dominican trademark registration.

17 **REQUEST FOR ADMISSION 4:** Admit that when Applicant was issued its Dominican
18 trademark registration, Applicant did not employ any full-time, permanent personnel in the
19 Dominican Republic.

20 **RESPONSE:** Applicant objects to this Request on the grounds that it seeks facts and information
21 that are neither relevant to the issues in this action nor reasonably calculated to lead to the
22 discovery of admissible evidence. Applicant further states that the National Office of Industrial
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27 **APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S REQUESTS FOR ADMISSIONS**

1 Property in the Dominican Republic performs due diligence prior to issuing Trademark
2 Registrations. Applicant denies that it did not employ any full-time, permanent personnel in the
3 Dominican Republic when Applicant was issued its Dominican trademark registration.

4 **REQUEST FOR ADMISSION 5:** Admit that when Applicant was issued its Dominican
5 trademark registration, Applicant did not employ any part-time, permanent personnel in the
6 Dominican Republic.

7 **RESPONSE:** Applicant objects to this Request on the grounds that it seeks facts and information
8 that are neither relevant to the issues in this action nor reasonably calculated to lead to the
9 discovery of admissible evidence. Applicant further states that the National Office of Industrial
10 Property in the Dominican Republic performs due diligence prior to issuing Trademark
11 Registrations. Applicant denies that it did not employ any part-time, permanent personnel in the
12 Dominican Republic when Applicant was issued its Dominican trademark registration.

14 **REQUEST FOR ADMISSION 6:** Admit that Applicant's cigar manufacturing agreement with
15 Tabacos Carbonell, S.A., provides for Applicant to take service of process at the personal
16 residence of Jose Rivas.

17 **RESPONSE:** Applicant objects to this Request on the grounds that it is vague, ambiguous and
18 not capable of being reasonably understood or construed. Jose Rivas is the Director of Sales for
19 S.O.B. cigars in the Dominican Republic.

21 **REQUEST FOR ADMISSION 7:** Admit that when Applicant was issued its Dominican
22 trademark registration, Applicant was not domiciled in the Dominican Republic.

23 **RESPONSE:** Admit. Applicant, Brooks Entertainment, Inc., was not domiciled in the
24 Dominican Republic when the Dominican trademark registration was issued. Applicant used a
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27 **APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S REQUESTS FOR ADMISSIONS**

1 local agent to apply on its behalf since the National Office of Industrial Property requires a local
2 representative for companies not domiciled in the Dominican Republic.

3 **REQUEST FOR ADMISSION 8:** Admit that when Applicant was issued its Dominican
4 trademark registration. Applicant was not a Dominican national.

5 **RESPONSE:** Admit. Applicant, Brooks Entertainment, Inc., was not a Dominican national when
6 the Dominican trademark registration was issued. Applicant used a local agent to apply on its
7 behalf since the National Office of Industrial Property requires a local representative for non-
8 nationals.

9 **REQUEST FOR ADMISSION 9:** Admit that Applicant does not have any documentation of
10 sales in the United States of cigars or other goods bearing the S.O.B. mark in 2011.

11 **RESPONSE:** Applicant denies that it does not have any documentation of sales in the United
12 States of cigars or other goods bearing the S.O.B. mark in 2011.

13 **REQUEST FOR ADMISSION 10:** Admit that Applicant does not have any documentation of
14 sales in the United States of cigars or other goods bearing the S.O.B. mark in 2012.

15 **RESPONSE:** Applicant denies that it does not have any documentation of sales in the United
16 States of cigars or other goods bearing the S.O.B. mark in 2012.

17 **REQUEST FOR ADMISSION 11:** Admit that Applicant does not have any documentation of
18 sales in the United States of cigars or other goods bearing the S.O.B. mark in 2013.

19 **RESPONSE:** Applicant denies that it does not have any documentation of sales in the United
20 States of cigars or other goods bearing the S.O.B. mark in 2013.

21 Respectfully submitted.

22 //

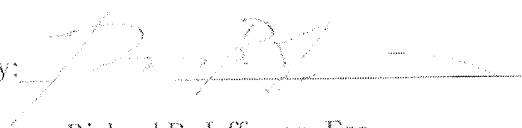
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27 **APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S REQUESTS FOR ADMISSIONS**

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Date: May 16, 2014

M.E.T.A.L. Law Group, LLP

By: 

Richard B. Jefferson, Esq.

M.E.T.A.L. Law Group, LLP
5757 Wilshire Boulevard, PH-3
Los Angeles, CA 90036
P: 323.289.2260, ext. 102
Counsel for Applicant

1
2 **CERTIFICATE OF SERVICE**

3 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and
4 not a party to the within action; my business address is 5757 Wilshire Boulevard, PH-3, Los
5 Angeles, CA 90036.

6 I hereby certify that a true and complete copy of the foregoing, **Applicant's Objections
7 and Responses To Opposer's First Set of Requests for Admissions**, has been served on Antony
8 McShane, Esq. by mailing said copy on April 8, 2014, via first class mail, postage paid, to:

9 Andrew S. Fraker, Esq.
10 NEAL, GERBER & EISENBERG LLP
11 Two North LaSalle Street Suite 1700
12 Chicago, IL 60602-3801

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Dated: May 16, 2014

By: 
Rosemary Fagerholm

APPLICANT'S OBJECTIONS AND RESPONSES TO OPPOSER'S REQUESTS FOR ADMISSIONS

EXHIBIT N

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No.
85/551,808 for S.O.B.

Published in the Official Gazette
on July 23, 2013

REPUBLIC TECHNOLOGIES (NA), LLC,

Opposer,

v.

BROOKS ENTERTAINMENT, INC.,

Applicant.

Opposition No. 91212024

OPPOSER'S SECOND SET OF INTERROGATORIES

Pursuant to Rule 2.120 of the Trademark Rules of Practice and Rule 33 of the Federal Rules of Civil Procedure, Opposer, Republic Technologies (NA), LLC, hereby requests that Applicant, Brooks Entertainment, Inc., serve upon Opposer sworn answers to the interrogatories set forth below within thirty (30) days. These interrogatories are intended to be continuing in nature and any information that may be discovered subsequent to the service of Applicant's initial answers should be brought to the attention of Opposer through supplemental answers within thirty (30) days following such discovery pursuant to Rule 26(e) of the Federal Rules of Civil Procedure.

INTERROGATORIES

1. Describe in detail the "bona fide and effective industrial or commercial establishment" in the Dominican Republic relied upon by Applicant as the basis for Applicant's

attempt to register the S.O.B. mark.

2. Describe the physical, fixed place of business or places of business Applicant had in the Dominican Republic, including any offices or retail or production facilities, at the time Applicant's Dominican trademark registration was issued. If Applicant did not maintain a fixed place of business in the Dominican Republic at that time, so state.

3. Describe each physical, fixed place of business or places of business Applicant has had or currently has in the Dominican Republic, including any offices or retail or production facilities.

4. List all permanent, full-time or part-time personnel employed by Applicant at any time in the Dominican Republic, and set forth the dates and responsibilities of such employment.

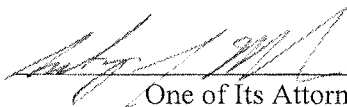
5. State the basis for Applicant's response to each and every one of Opposer's Requests for Admission that Applicant does not unequivocally admit.

DEFINITIONS AND INSTRUCTIONS

Opposer incorporates herein the definitions and instructions set forth in Opposer's First Request for Production of Documents to Applicant and Opposer's First Set of Interrogatories to Applicant as if fully set forth and repeated herein.

Respectfully submitted,

REPUBLIC TECHNOLOGIES (NA), LLC

By: _____
One of Its Attorneys

Antony J. McShane
Andrew S. Fraker
NEAL, GERBER & EISENBERG LLP
Two North LaSalle Street
Suite 1700
Chicago, IL 60602-3801
(312) 269-8000
Firm ID 13739

Dated: April 21, 2014

CERTIFICATE OF SERVICE

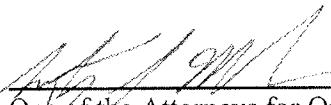
I, Antony J. McShane, an attorney, hereby certify that I caused a true and correct copy of the foregoing **OPPOSER'S SECOND SET OF INTERROGATORIES** to be served upon:

Richard B. Jefferson
M.E.T.A.L. Law Group, LLP
Museum Square
5757 Wilshire Blvd., PH 3
Los Angeles, CA 90036

via U.S. Mail on the date noted below:

Date: April 21, 2014

By:



One of the Attorneys for Opposer,
Republic Technologies (NA), LLC

NGEDOCs: 019126.0702:2167687.1

NGEDOCs: 019126.0702:2167744.1

EXHIBIT O

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3 **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
4 **BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

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REPUBLIC TECHNOLOGIES (NA), LLC)	IN THE MATTER OF:
)	OPPOSITION NO: 91212024
Opposer,)	SERIAL NO: 85/551,808
)	FOR THE MARK: S.O.B.
v.)	PUBLISHED ON: JULY 23, 2013
)	
BROOKS ENTERTAINMENT, INC.,)	
A California Corporation)	
)	APPLICANT'S RESPONSES TO
Applicant.)	OPPOSER'S SECOND SET OF
)	INTERROGATORIES

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GENERAL OBJECTIONS

A. Applicant objects to Opposer's discovery requests to the extent that they seek information and seek to impose duties beyond the scope of the Federal Rules of Civil Procedure, including any information protected by the attorney-client privilege, the work product doctrine, or any other applicable privilege. The inadvertent disclosure of such information shall not constitute a waiver of any right of non-disclosure, or the waiver of any other ground for objecting to the disclosure of such information.

B. Applicant objects to the Opposer's discovery requests to the extent that they seek information beyond the scope of permissible discovery in that they are not relevant to the subject matter of this action, nor are they likely to lead to discovery of admissible evidence. Applicant neither concedes the relevancy of any requests nor the relevancy or admissibility of any information or documents provided in response thereto. The fact that information is provided or documents produced in response to a particular request does not mean that it is probative of any

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APPLICANT'S RESPONSES TO INTERROGATORIES – SET TWO

1 issue in this action. Applicant reserves all objections to admissibility with regard to the
2 statements or documents referred to in these interrogatories or in answers thereto.

3 C. Applicant objects to Opposer's discovery requests to the extent they seek
4 information that implicates the privacy rights of any individuals.

5 D. Applicant objects to the extent that Opposer's discovery requests fail to describe
6 the requested information with reasonably particularity and to the extent they are vague,
7 overbroad, unduly burdensome, and unnecessarily duplicative.

8 E. A response to a particular request that Applicant will answer in the future is not a
9 representation that such information or documents exist or have ever existed, but instead is a
10 representation that, to the extent such information or documents exist and are within the
11 knowledge of Applicant, they will be provided in accordance with the terms of Applicant's
12 response to that particular request, and subject to all objections thereto.

13 F. Applicant reserves the right to supplement its responses to these discovery
14 requests.
15

16 **RESPONSE TO INTERROGATORIES**

17 The responses set forth below are consistent with the foregoing general objections.

18 **INTERROGATORY NO. 1:** Describe in detail the "bona fide and effective industrial or
19 commercial establishment" in the Dominican Republic relied upon by Applicant as the basis for
20 Applicant's attempt to register the S.O.B. mark.
21

22 **RESPONSE:** The address to our physical production facility in the Dominican Republic since
23 2011 is Fundado El 3 DE Marzo DE 1909, Palmar Abajo, Santiago De Los Caballeros,
24

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26 **APPLICANT'S RESPONSES TO INTERROGATORIES – SET TWO**
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1 Republica Dominicana; Tabacueria Carbonell CXA has manufactured the cigars and assembled
2 the product since 2011; Jose Rivas has served as the Director of Sales for S.O.B cigars in the
3 Dominican Republic since 2011; Eduard Gonzalez has been the box manufacturer of the S.O.B
4 cigars in the DR since 2011; Frank Felix has been the graphic artist of the S.O.B cigars in the DR
5 since 2011; Veneranda Linares has been Applicant's WDA Spanish to English contract translator
6 since 2011; Leslie Diaz has been Applicant's WDA International Law Firm representative since
7 2011; Arisleydi Diaz served as the Paralegal for our Dominican Republic trademark application,
8 and Wendy Diaz is the Managing Partner and has been Applicant's WDA International Law
9 Firm attorney since 2011.

10 **INTERROGATORY NO. 2:** Describe the physical, fixed place of business or places of
11 business Applicant had in the Dominican Republic, including any offices or retail or production
12 facilities, at the time Applicant's Dominican trademark registration was issued. If Applicant did
13 not maintain a fixed place of business in the Dominican Republic at that time, so state.
14

15 **RESPONSE:** The address to our physical production facility in the Dominican Republic since
16 2011 is Fundado El 3 DE Marzo DE 1909, Palmar Abajo, Santiago De Los Caballeros,
17 Republica Dominicana. Tabacueria Carbonell CXA has manufactured the cigars and assembled
18 the product since 2011.
19

20 **INTERROGATORY NO. 3:** Describe each physical, fixed place of business or places of
21 business Applicant has had or currently has in the Dominican Republic, including any offices or
22 retail or production facilities.

23 **RESPONSE:** The address to our physical production facility in the Dominican Republic since
24

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26 **APPLICANT'S RESPONSES TO INTERROGATORIES – SET TWO**
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2011 is Fundado El 3 DE Marzo DE 1909, Palmar Abajo, Santiago De Los Caballeros,
Republica Dominicana. Tabaqueria Carbonell CXA has manufactured the cigars and assembled
the product since 2011.

INTERROGATORY NO. 4: List all permanent, full-time or part-time personnel employed by
Applicant at any time in the Dominican Republic, and set forth the dates and responsibilities of
such employment.

RESPONSE: Jose Rivas has served as the Director of Sales for S.O.B cigars in the Dominican
Republic since 2011; Eduard Gonzalez has been the box manufacturer of the S.O.B cigars in the
DR since 2011; Frank Felix has been the graphic artist of the S.O.B cigars in the DR since 2011;
Veneranda Linares has been Applicant's WDA Spanish to English contract translator since 2011;
Leslie Diaz has been Applicant's WDA International Law Firm representative since 2011;
Arisleydi Diaz served as the Paralegal for our Dominican Republic trademark application, and
Wendy Diaz is the Managing Partner and has been Applicant's WDA International Law Firm
attorney since 2011. All are presently still with the company.

INTERROGATORY NO. 5: State the basis for Applicant's response to each and every one of
Opposer's Request for Admission that Applicant does not unequivocally admit.

RESPONSE: The address to our physical production facility in the Dominican Republic since
2011 is Fundado El 3 DE Marzo DE 1909, Palmar Abajo, Santiago De Los Caballeros,
Republica Dominicana; Tabaqueria Carbonell CXA has manufactured the cigars and assembled
the product since 2011; Jose Rivas has served as the Director of Sales for S.O.B cigars in the
Dominican Republic since 2011; Eduard Gonzalez has been the box manufacturer of the S.O.B

APPLICANT'S RESPONSES TO INTERROGATORIES - SET TWO

1 cigars in the DR since 2011; Frank Felix has been the graphic artist of the S.O.B cigars in the DR
2 since 2011; Veneranda Linares has been Applicant's WDA Spanish to English contract translator
3 since 2011; Leslie Diaz has been Applicant's WDA International Law Firm representative since
4 2011; Arisleydi Diaz served as the Paralegal for our Dominican Republic trademark application,
5 and Wendy Diaz is the Managing Partner and has been Applicant's WDA International Law
6 Firm attorney since 2011; Tabacos Carbonell, SA or Tabaqueria Carbonell CXA is our
7 contracted production facility in the DR since 2011. All personnel listed are still presently with
8 the company.
9

10
11 Respectfully submitted.

12 Date: May 16, 2014

M.E.T.A.L. Law Group, LLP

13
14 By: 

15 Richard B. Jefferson, Esq.

16 M.E.T.A.L. Law Group, LLP
17 5757 Wilshire Boulevard, PH-3
18 Los Angeles, CA 90036
19 P: 323.289.2260, ext. 102
20 Counsel for Applicant
21
22
23
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25

26 APPLICANT'S RESPONSES TO INTERROGATORIES - SET TWO
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1 CERTIFICATE OF SERVICE

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and
3 not a party to the within action; my business address is 5757 Wilshire Boulevard, PH-3, Los
4 Angeles, CA 90036.

5 I hereby certify that a true and complete copy of the foregoing, **Applicant's Responses**
6 **To Opposer's Second Set Of Interrogatories**, has been served on Antony McShane, Esq. by
7 mailing said copy on April 8, 2014, via first class mail, postage paid, to:

8 Andrew S. Fraker, Esq.
9 NEAL, GERBER & EISENBERG LLP
10 Two North LaSalle Street Suite 1700
11 Chicago, IL 60602-3801

12 Dated: May 16, 2014

13 By: 

14 Rosemary Lagerholm

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26 **APPLICANT'S RESPONSES TO INTERROGATORIES - SET TWO**
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EXHIBIT P



WENDY DIAZ & ASSOCIATES, P.A.

International Law Firm

MIAMI OFFICE
BRICKELL BAYVIEW CENTER
80 SW 8TH ST, SUITE 2042
MIAMI FL 33130,
TEL. 305-428-2034
FAX 305-394-8915
www.wdalaw.com

SANTO DOMINGO OFFICE
Av. Abraham Lincoln #1003
Torre Profesional Biltmore Suite 301
Ensanche Piantini, Santo Domingo
DOMINICAN REPUBLIC,
TEL (809) 540 8001
Fax (809) 540 8002
e-mail: trademarks@wdalaw.com

January 05th, 2012

BROOKS ENTERTAINMENT INC
P.O. Box 181, 205 Coronado,
California 92178,
UNITED STATES OF AMERICA

I N V O I C E # DR2012/02

(US\$ CURRENCY)

Professional fees for publication and certificate issuance.....

Official fees paid to Dominican Republic Trademark Office for publication and certificate issuance.....

Communication expenses.....

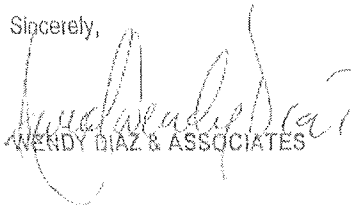
TOTAL GENERAL

PAYMENT SHOULD BE SENT DIRECTLY TO:

BANK ATLANTIC
MIAMI FLORIDA
A.B.A. 267083763
ACCOUNT NO. 0064990755
IN THE NAME OF: WENDY DIAZ & ASSOCIATES, P.A.

Should you have any inquiry about this invoice, please contact us at trademarks@wdalaw.com

Sincerely,


WENDY DIAZ & ASSOCIATES

0146

5/12/2014

Metal Law Group Mail - [FWD: _Doc _en_Ingles y _en_Español]

Richard Jefferson <richardjefferson@metallawgroup.com>

[FWD: _Doc _en_Ingles y _en_Español]

1 message

shonbrooks@sobcigars.com <shonbrooks@sobcigars.com>
To: richardjefferson@metallawgroup.com

Mon, May 12, 2014 at 8:22 PM

----- Original Message -----

Subject: Fwd: _Doc _en_Ingles y _en_Español
From: taxshelterpro@aol.com
Date: Mon, May 12, 2014 8:21 pm
To: shonbrooks@sobcigars.com

Veneranda Linares translates contract from Spanish to English for S.O.B Cigars.

-----Original Message-----

From: Leslie Diaz <l.diaz@wdalaw.com>
To: taxshelterpro <taxshelterpro@aol.com>
Sent: Wed, Nov 6, 2013 12:30 pm
Subject: Fwd: Doc. en Ingles y en Español

Dear Mr. Brooks,

Please find enclosed documents as requested.

Sincerely,

Lic. Leslie Díaz

WDA INTERNATIONAL LAW FIRM
www.wdalaw.com

USA ADDRESS

8400 Nw 25 St Suite 110
BM#12864
Doral, Florida 33122
TEL. 305-428-2034
FAX 305 394-8915
USA

LATIN AMERICA OFFICE

Av. Abraham Lincoln no. 1003
Torre Profesional Biltmore, Suite 301
Santo Domingo, DOMINICAN REPUBLIC
TEL. 809-540-3001 / 809-540-5687 / 809-540-8002


----- Forwarded message -----


5/12/2014

Metal Law Group Mail {FWD: _Doc. en Ingles y en Español}

From: **Veneranda Linares** <veneranda.linares@gmail.com>
Date: 2013/11/6
Subject: Doc. en Ingles y en Español
To: "l.diaz@wdalaw.com" <l.diaz@wdalaw.com>

2 attachments

 Doc._en_Ingles,_Bobadilla.pdf
1973K

 Doc._en_Español,_Bobadilla.pdf
1475K

0148

5/12/2014

Metal Law Group Mail - [FWD: Publication for Trademark S.O.B. and Design in Dominican Republic]

Richard Jefferson <richardjefferson@metallawgroup.com>

[FWD: Publication for Trademark S.O.B. and Design in Dominican Republic]
1 message

shonbrooks@sobcigars.com <shonbrooks@sobcigars.com>
To: richardjefferson@metallawgroup.com

Mon, May 12, 2014 at 7:54 PM

Please add Arisleydi Diaz as the S.O.B Cigar Paralegal in DR for our trademark. Thanks.

----- Original Message -----

Subject: Fwd: Publication for Trademark S.O.B. and Design in Dominican Republic

From: taxshelterpro@aol.com

Date: Mon, May 12, 2014 7:51 pm

To: shonbrooks@sobcigars.com

-----Original Message-----

From: Arisleydi Diaz <a.diaz@wdalaw.com>

To: taxshelterpro <taxshelterpro@aol.com>; w.DIAZ <w.DIAZ@WDALAW.COM>

Sent: Thu, Jan 5, 2012 8:51 am

Subject: Publication for Trademark S.O.B. and Design in Dominican Republic

Dear Mr. Brooks,

In accordance to the above-referenced matter, we inform you that we just received the approval of the trademark **S.O.B and Design** in the name of **BROOKS ENTERTAINMENT INC** by the TMO and should be published.

On the other hand, please note that we are enclosing our invoice no. **DR2012/02** for amount of **\$1,500.00** which must be cancelled in order to proceed with publication payment. we appreciate your payment as soon as possible, **in order to pay fees to TMO.**

Should you require any further information about this concern, please contact us.

Please acknowledge safe receipt of this message.

Sincerely,
Arisleydi Diaz
Paralegal Trademarks

WDA

WENDY DIAZ & ASSOCIATES
International Law Firm

SANTO DOMINGO OFFICE
Av. Abraham Lincoln no. 1003
Torre Profesional Biltmore, Suite 301
Santo Domingo, DOMINICAN REPUBLIC

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